

The Board of Commissioners of Fayette County, Georgia met in Official Session on March 14, 2002, at 7:10 p.m. in the public meeting room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

COMMISSIONERS PRESENT: Greg Dunn, Chairman
Linda Wells, Vice Chair
Herb Frady
Peter Pfeifer
A.G. VanLandingham

STAFF MEMBERS PRESENT: Chris W. Cofty, County Administrator
Carol Chandler, Executive Assistant
William R. McNally, County Attorney
Dennis Davenport, Asst. County Attorney
Linda Rizzotto, Chief Deputy Clerk

DAVE HAMRICK DIES AT AGE 51: Chairman Dunn announced that the Editor and Chief Reporter for the Fayette Citizen Newspaper, Dave Hamrick, passed away last evening while playing soccer. He commented that Mr. Hamrick collapsed and never regained consciousness. He said we have become use to Dave being a consummate professional in his industry, he treated the people he covered fairly and honestly and we will miss him. He remarked that Mr. Hamrick left behind a wife and two older children. He asked that the Hamrick family and those that worked with him be remembered in prayer.

Chairman Dunn called the meeting to order, offered an invocation and led the pledge to the Flag.

PUBLIC HEARING:

ORDINANCE NO. 2002-01, APPROVAL OF AMENDMENTS TO THE FAYETTE COUNTY DEVELOPMENT REGULATIONS REGARDING ARTICLE III. STREET DESIGN STANDARDS AND SPECIFICATIONS, SECTION 8-52. RESIDENTIAL ACCESS. The Planning Commission recommended approval 5-0. This is continued from the meeting of February 28, 2002.

Director of Engineering, Ron Salmons, said he was bringing this matter to the Commissioner's at their direction. He said this was a product of the Technical Review Committee, which was intended to clarify the Development Regulations and to make them consistent with the existing Zoning Ordinances.

Mr. Salmons stated that currently the Zoning Ordinance requires that each building have at least 100-foot of road frontage for access purposes. He added the intent was to have the access through that minimum 100-foot of road frontage. He commented this was approved by the Board in 1999. He said the Committee was to clarify the Development

Regulations but during the deliberations, the Committee felt there were, in fact, certain cases where a shared driveway may be appropriate. He added in the case where there was not adequate sight distance for the driveway to a particular lot would meet the standards, and for local roads that was approximately 200-feet. He stated in those exceptions, he was proposing that we allow two lots to share a driveway. He said in order to do this, the property owners would have to have at least a 20-foot wide all surface driveway. He said they would also have to have a permanent cross-access agreement executed, all of the addresses would have to be clearly marked, we would still require the road frontage of 100-feet for each building lot, and it would have to meet the sight distance. He said to allay anyone's fears, these revisions apply only to new development and did not impact any existing shared driveways that currently exist. He said this was a relatively simple proposal and he would be happy to answer any questions the Board members had.

Commissioner Frady said he previously asked that this matter be tabled, not because he disagreed with its content, but because he wished to expand it. He commented the county has had a lot of shared driveways, but he would like to see us look at this from the standpoint of the Adams Road case. He said in this case there were a lot of flag lots there with 100-feet of frontage for a road and there was going to be a lot of cars coming on and off of Adams Road. He stated it would make sense to him in two ways, (1) there would be less water runoff by having one road, and (2) have a driveway that would be 60-feet wide, which is the county minimum. He said for example, let there be approximately five or six houses on this one road, it would be so deep, the road would be a private road, and owned by the property owners. He added that the road would have to be an all-weather road and each property owner would share the road, the same you would with the driveways we have now. He said the road would be wide enough if the homeowners ever decided to pave it.

Commissioner Frady said the proposed ordinance mentions safety that occurs, site distance and this type of thing, but he knew of some driveways that had five or six homes on them now and they did not have a 60 foot right-of-way, they only had an easement he thought. He commented this situation made it difficult for the Fire Chief to get the fire trucks and ambulances in there. He stated he would like to see the county take a look at this to see if we could work out something here, especially in the areas where you do not want to put down asphalt because you don't want water running out. He said he would like to see if something could be done in that area.

Mr. Salmons stated if the Board would like staff to go in that direction, staff would be happy to take a look at it. He said the staff was trying to respond to the desires of the Board.

Vice Chair Wells said she was not in favor of doing that, primarily because back in 1992 when the Board looked at this situation, both she and Commissioner Frady were new on the Board at that time, but we had a number of problems with flag lots. She stated she remembered Jack Krakeel having some instances where it was not always clearly marked and there would be a flag lot miles back in the back and they would call for fire service, and it was not always easy to ascertain where the person lived. She added the driveways were not always wide enough to accommodate the fire equipment, etc, and we have looked long and hard at that issue and we had a lot of discussion, we had a public hearing at that time and what we came up with she felt had worked extremely well. She stated when you get into sharing things, its real nice, but sometimes whenever you start talking about five or six people sharing a driveway and then someone decides not to be a good neighbor, or they have excessive visitors who park in that driveway, they could block somebody further down. She said she could envision someone in the middle house deciding to have a party, and blocking ingress/egress could cause a real problem in an emergency. She said she could not support expanding this any further then what we have here.

Ms. Wells stated staff had done a good job in writing this proposal and she would support it, but reluctantly so, because the more we have to ask people to get into a situation where there may be hard feelings amongst neighbors, or different things may have happened, that was always a bone of contention because it is a county ordinance. She commented their only remediation would be to file a civil suit so you could have some real problems there.

Ms. Wells asked when it would be required that the address be clearly marked and would it be required to be done before the certificate of occupancy.

Mr. Salmons stated it was anticipated that this would be done before the certificate of occupancy was issued. He added it would be done at the mailbox on the public road.

Ms. Wells asked if this was okay with Chief Krakeel.

Mr. Salmons said a representative from Mr. Krakeel's office worked with county staff on this, also, Ms. Zeitler, Dave Borkowski and the county attorney worked together to try and bring this together to make it workable.

Ms. Wells asked if Mr. Salmons had any problem in being able to discern, the "certain circumstances, or certain exceptions" he mention earlier. She asked if this was clearly delineated enough that the county could defend it.

Commissioner VanLandingham stated he had not made up his mind by what he heard the other Commissioners say, but he saw some things that he thought we should look at. He remarked in the situation with a flag lot, we are creating it and we are forcing the property owner to do it this way. He pointed out with a private road, the owner was creating the situation and not the county. He said what we do when we have a flag lot with a 150-foot staff, they have enough room to get their largest vehicle through it and that was it. He added this was not an ambulance or an emergency vehicle, so we are creating a situation there that we cannot supply the aid. He commented if we allow the other, then if it's brought by children having a party or kids leaving toys, then that's not ours. He claimed he saw merit on both sides and he would like for us to in some way look at this again and see if we need to do something. He said he knew of a property where the staff on it is 200-feet long and this was an undue burden on someone building a driveway. He said he didn't know about a private road and added that maybe it could be a public road, but it was something that we needed to look at.

Commissioner Frady said he wished to clarify something Ms. Wells said because she was exactly right when one has a 25-foot easement or 25-foot frontage and you are trying to run three to five through there. He said his point of having a 60-foot right-of-way and it would be 2-way traffic, everybody has a driveway off of this, just as if it was paved, and if you want to park out there you could as you would not block off anybody down that road and the ambulances would certainly have a lot more space to maneuver in. He said off of this road, everyone would have their own driveway and not be parking on the street.

Commissioner Pfeifer said he was not sure we were not talking about two different things.

Commissioner VanLandingham said we were, we are talking about expanding this and he was satisfied with this.

Commissioner Frady claimed he said "Up front, I would like to expand on that".

Commissioner Pfeifer said if you have 60-feet, you have a road. He asked Mr. Salmons if this would prevent them from building a road and Mr. Salmons said it did not.

Mr. Salmons stated that any developer could figure his lots anyway he wished and if he wanted to make it into flag lots, to have driveways and be able to sell and develop the property economically that was his option. He commented another option for the developer would be to configure it by putting a subdivision road in and having very short driveways. He said these were decisions developers make to maximize a return on their investment.

He stated he would follow the Board's direction whichever way it wanted to go.

Commissioner Frady commented that one downside to this could be if you have a blind drive you were going to be running two cars on the blind drive because the folks coming off of their lots, obviously, would be some hundred feet apart. He said this was something to think about.

Mr. Salmons said if one of the owners did not meet the site distance, the shared driveway would have to meet the site distance and that was the intent of it.

Chairman Dunn stated he understood the intent and he supported this but, he wished to clarify that all shared driveways that were currently in existence were grandfathered totally, and this would include later sales of this property, the new owners would not have to make any changes.

Mr. Salmons said that was correct.

Chairman Dunn asked if anyone from the audience wished to speak for or against this change and no one did.

Mr. Salmons said the sight distance where the driveway would come on to the road was clearly defined in dimensions and in hard numbers in the Development Regulations. He added that the sight distance includes both horizontal and vertical, and it covers a hill and/or a curve, so it covers both of these situations.

On motion made by Vice Chair Wells, seconded by Commissioner Pfeifer to adopt Article III. Street design standards and specifications, Section 8-52. Residential access as presented. The motion carried 5-0. A copy of Ordinance No. 2002-01, identified as "Attachment No. 1", follows these minutes and is made an official part hereof.

OLD BUSINESS:

ATLANTA HIGHWAY ENFORCEMENT AGAINST AGGRESSIVE TRAFFIC: This is continued from the meeting of February 28, 2002.

Chairman Dunn stated this issue was a grant under consideration for additional traffic police officers. He said it was tabled until tonight to give the County Attorney time to analyze all of the requirements in the grant, however, due to the Attorney being ill, he requested this matter be tabled until the next meeting.

On motion made by Vice Chair Wells, seconded by Commissioner Frady to table this issue to give the County Attorney time to analyze all of the requirements in the grant and to list this item on the agenda for March 28, 2002. The motion carried 5-0.

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FURTHER DISCUSSION OF GEORGIA'S REGIONAL TRANSPORTATION AUTHORITY EXPRESS BUS PROPOSAL: Chairman Dunn stated this was just a follow-up of a very lengthy discussion and presentation that we had at our last meeting on the proposed Regional Transportation Authority Express Bus System that will impact Fayette County as well as all of the other counties in the area.

Mr. Dunn said his take on what happened here last week was that there was very little support for this among us, including the Mayors who we invited as guests. He remarked that he knew from talking with some of the people in the audience that they had communications from many citizens, and overwhelmingly, they did not support us taking part in this program. He said he thought it was necessary tonight to make a decision that we have not made before on whether or not we will participate in this.

Chairman Dunn said he thought it was fair to state that today he was informed by the Chairman of the Chamber of Commerce, Mike Hofrichter, and his Board Member, Andy Carden who expressed some concerns about the impact of turning this down if we did not participate in the bus system. He said he understood their concerns as they did support the county's participation in this program and they share our concerns, quite frankly, as to what was going to be the impact at the State House when we turn it down, or if we turn it down. He stated we were going to have to walk delicately here, and try to preserve a good relationship with everybody in the process. He remarked that he had a draft letter prepared notifying GRTA that at this point we could not support this program as it was currently constructed. He said he has given reasons in his draft letter why the Board could not support the program at this juncture. He said that he also left the door open that we would like to sit down and talk to them in the future about making something that would work, if not right away, at least in the future when perhaps some people in this county would want something like this. He said he expressed to GRTA's Executive Director and her assistant the county's desire to do a pilot program for six months to see if our concerns are right or if their projections were right. He added at this point, GRTA was not willing to do that. He said GRTA has said that the Governor wants the commitment now. He stated he did not speak for the rest of the members of the Board, but from what he heard them saying, we are not ready to give that kind of commitment and we do not think this is the proper time in this county to get into rapid transit.

On motion made by Chairman Dunn, seconded by Vice Chair Wells that the county notify GRTA by letter that at this point in time, with the program as it is currently constructed, that we notify them we will not be able to partake in it.

Commissioner Frady reiterated the fact that the State was intimidating this county by trying to dangle a carrot out in front of us of \$12,000,000. He said that was our tax dollars that we paid dearly for on gas tax which is 29.9 cents a gallon overall, the State gets 11.5 cents and the Federal government gets 18.4 cents. He said this was a lot of money that Fayette citizens were paying for this. Mr. Frady commented it was insulting to him, for the Governor to want us to pay him, and whoever was behind this with him, 1.2 or 1.4, and they don't know which yet, a million dollars for the opportunity of getting the citizens' tax dollars back to work on roads. He said if we can't work on roads because of the air quality, how they can work on roads if we give them 1.2 million dollars, and all of a sudden the air quality is fine. He stated he did not think we had that big a problem with the air in the first place. He said one day, two or three years ago, we failed one day out of the year and they canned us. He said, also, he knew there were people out there who would like to see the bus service. Mr. Frady said he just could not put himself in a position to vote the citizens' dollars to get what dollars we have back with no end to this thing because when they quit paying this certain amount of money, then we are going to have to take it over and run it for three years at least, and pay for it with your tax dollars to operate this bus system that was not working. He reported one of our Board member sat at a Clayton County bus stop and watched five buses come and go with only 4 people getting on or off of five buses. He remarked he could not imagine any entrepreneur coming here to start a bus service to Atlanta, Georgia, hoping to make money. He said MARTA was not making any money as far as he knew because they keep going up on their fares, and Am Trak was not making any money, the way they talk about it, so the government was supporting them. He commented that he had a problem with this on behalf of the people of this county and he was not going to support it.

Commissioner VanLandingham stated he contacted Peachtree City and Fayetteville, and due to being busy, he forgot to call Tyrone and the others. He asked the cities representatives if they had any information they wished to pass on before the Board took a vote on this matter and they advised him that they were in line with the county and opposed this proposal. He commented at the same time, he saw a need for some information. He said they came here telling the county they want us to do this, but it was in such a fashion that he did not think we could support it. He said it did, however, open up an avenue that we need to explore and we need to do something that they did not do. He asked why didn't the county conduct a survey to see what was out there. He added it would be very simple to ask the folks of Fayette County if they would support service if it was a private enterprise, something that the county would not have to subsidize with tax dollars. He stated they were running a bus service on a scheduled basis and we really did not need this in Fayette County. He further said we needed something for rush hour and he thought, if the county had something instituted on this line, then we could go with that if the people desired it. He commented he did not think that the State was playing fair with our tax dollars. He stated while the money was attractive, the county was not going to get

this money all at one time. He said they were going to spread it out but the county was going to have to pay its money all up front and then they were going to dole out money out over a three or four-year period. He said he did not think that he could support this in any way.

Chairman Dunn stated he agreed with many of the things that were said, but clarification was necessary. He said for one thing this is an express bus service, it is a commuter bus proposal. He added there would be buses leaving Fayette County in the morning and coming back at night, it would not be a scheduled bus system that ran all day long. He said another thing was that if we participated in this program, they said they would give the county twelve to fourteen million dollars for road work. He commented the road projects they were talking about were the projects we already have in the Regional Transportation Plan. He said the State would not add any new projects, and we already have our projects in the Plan over the next twenty-five years. He said these roads would eventually be built, this is not a take the money now or you will never have a road, this is just impetus here and the dangling carrot is they want us to pay so that we can access some of our own tax money just to move the projects up. He said in some cases, it may be four or five years but there is no opportunity here to put new projects in the plan. He added those projected were already listed and we have several over the next twenty-five years in that plan. He stated this did not mean that if we did not participate in this, we would never have another road here, it meant that we will wait for the schedule instead of moving them up. Mr. Dunn remarked to him this was even less attractive because if we wait we will get the roads, but we may not get them when we want them. He stated this whole program has been problematic to him for several reason because in the letter he is proposing to send, we list some of the problems and some of the problems are that they have not done a study, they do not know whether this will work, they have no reason to believe it will. He commented the State has decided that every county was going to have buses, and the reason every county is suppose to agree to the buses, is that this is step one in a Regional Transportation Authority for the metro area of Atlanta. He said if we except this now, we're in. He said the question was, did we want to be in the metro areas' Regional Transportation System. He mentioned Fayette County could get in later if we grow to a point that we want to do that, but he did not think this county was ready for it now.

Chairman Dunn stated Cherokee County and Fayette County were the only two that have open expressed our concerns about this program. He advised that when Mr. Richie from GRTA was here, he verified the fact that many of the counties who have initially signed a Letter of Agreement to get into a decision making mode basically were having a very difficult time now making arrangements that they could live with. He said some of the counties who agreed at first to participate may, in fact, not participate, we do not know that yet. He said there may come a time in the history of this county when people will want it, but from what the Board was hearing, it wasn't now. Mr. Dunn stated this was a

momentous decision the Board was making here and one of the things that our community has to do in all things that come from the regionalization process that was going on now in roads, water, senior services and everything, they are trying to regionalize everything and take many of the decisions out of the hands of the local authorities. He added this county has to do what all counties should have done in their history sometime and we have to decide just what kind of community we want to be. He said he did not mean anything horrible by saying this but are we going to be just a suburb of Atlanta, or are we going to be Fayette County with its cities. He said he thought we wanted to be something different than what we have seen the rest of the Atlanta area grow into. He commented we were taking an important step here by not participating but he thought it was the will of the majority of the people in this county as we can discern it at this point in history.

Commissioner Frady stated the Board has fiscal responsibility for the citizens' money and the other thing that has happened so far that we do not know what is going to be the end of this but the Water Committee that the Governor setup for eighteen counties, we have already had. He commented had no option to spend \$73,000 for them to fund their actions against whatever they are going to do, and we have no idea what that is, so we are spending money left and right which we are ordered to do by our legislature, and you need to talk to them about it, not necessarily ours, but the legislators in Atlanta. He said we need to put a stop to this somehow. He said the State is trying to take home rule away from the counties as he saw it, and probably the cities as well, so somewhere along the line we are going to have to stop and take a good look at this and just find out exactly what is going on as we certainly do not know now.

Commissioner Dunn said one of the things he agreed with was there were some home rule aspects to this. He commented the Constitution says, "Your elected officials should make the decisions on what goes on in this county and in your cities." He added apparently everybody does not agree with that, that is currently in office in the State of Georgia. He said on the other hand, he has seen some good things that GRTA and the ARC have done lately, some good ideas, but we cannot join in and follow blindly, wherever we were going to be led. He remarked we were a better community than that and we need to control our own destiny as much as we can. He commented when the majority of the people in this county feel otherwise, he was sure they were going to tell us.

Vice Chair Wells she said had three quick points, (1) the fact that they are dangling the carrot so that we can move some of our roads up on the system was analogous to going to a restaurant and paying the maitre d an extra little bribe to get a better table. She said this is our money and we should not have to bribe somebody to give it back to us. (2) she said sometimes this is referred to as a pilot program and you will not hear anybody from the State talking about this as a pilot program, this is not a pilot program, this is something that some of us have decided that we will label it to make it go down a little bit better, but

when we asked the gentlemen who was here last week about this, he was very clear that this was not a test program, that they fully expected it to continue and that they would only be participating for the first three years. (3) She said in addition to that, the comment was that if we signed on to this, we would get our twelve to fourteen million dollars, even if at the end of the three years we pulled out of it. She commented this again was not what the gentleman said, he said this money would be given to us, not in a check or a lump sum, but on a reimbursable basis. She said if you were going to build roads, you were not going to build a great number of roads in three years, it was going to take us a long time to acquire the right-of-way, to do all of the structuring and everything that needed to be done to build the road. She stated in three years we will not have spent twelve to fourteen million dollars. She claimed what he said, if you read between the lines was, if you pull out at the end of those three years, the money that had already been committed to you was yours, but the rest of the twelve or fourteen million dollars was no longer there, it was off the table. She said there were a lot of very fine nuances that we have to be very careful that we understand here. She stated this was a situation where they were coming in, asking us to front 1.2 or 1.3 million dollars, and as a very conservative Board, we kind of choke on one, two or three million dollars because, to us, that is a lot of money for us to commit. She commented the thing that impressed her more and more, every time the Board would ask Mr. Richie a question like how was this going to be funded over three years, what if the ridership was not adequate, who was going to be responsible for X, Y and Z, his response was, "we have not worked that out yet". She said that scared her. She remarked that if she was going to commit that large a sum of money, she was going to have worked out all of the contingencies. She said she was going to look at all of the positives and negatives and she was going to plan beyond three years. She added that it would be irresponsible of this Board, since most of us only serve four years or a little more, for us to commit Fayette County citizens' to that type of uncertainty and then walk away and say, "well, gosh, it sounded like a good deal." She commented the Board was just trying to be as cautious with your money and your future as possible. She stated her last point was that private enterprises tried twice to do something very similar to this out of Peachtree City, and twice it has failed. She added when the Board mentioned this last week to Mr. Richie, he said this was not a money making project and would not pay for itself. She said the question was where were we going to get that money to offset the expenses, and Mr. Richie remarked they had not worked that out yet.

Ms. Wells said give us credit for trying to protect the county, this is something the Board was looking at and will look at again when the time was right. She said she did not think there was a person on the Board who wanted to hamstring the county and we don't want to hamstring their businesses. She said one of the nice things about a per capita was that Fayette County had the lowest tax basis of any community in the area. She said Fayette County had the lowest tax debt. She said if the county committed to this project it would

increase the debt for each and every citizen in Fayette County. She felt this just had not been worked out yet and she could not support it either.

Chairman Dunn pointed out that this was not a pilot program but was step one of a regional transportation system. He said he was a member of the executive committee in Atlanta and was aware of what was going on. He remarked that no studies had been done and everything was word of mouth. He said this was the reason a lot of people were misinformed. He said this was step one in a very, very detailed process that would result in a regional transportation rapid transit system. He said if Fayette County was part of this project it would have its fair share of paying for it whether or not Fayette County citizens used it or not.

Commissioner Pfeifer interjected that the Board was strongly unified on this issue. He said he concurred and agreed with everything that had been said.

Chairman Dunn said he was also gratified that the representatives from the five cities had attended this discussion and also agreed that this was not the time or place for this in Fayette County.

Commissioner VanLandingham remarked that there were so many loose ends and ifs in this proposal that it scarred him to death. He said once the county's money was under the gold dome, it would not matter if the county was told that it would receive \$14 million, he would guarantee that Fayette County would not get that \$14 million in three years. He said Fayette County would be in a program that would not furnish the money that was proposed. He said the county could not even get the money that the State had already obligated to the county. He said there was an intersection on the East side of town that the State had committed two different sums of money on. He said every time the State committed a new one, it was cut. He said Fayette County could not get the money that the State had committed to it already. He said that he just did not trust the State. He said he was not going to send the State another penny with his vote.

Chairman Dunn said the road project that Commissioner VanLandingham was speaking about was McDonough Road and County Line Road. He remarked that Mr. Coleman who was the Secretary of Transportation had committed to give Fayette County \$370,000 to help with the intersection and help with the safety aspects of that road. He said it was one of the most dangerous intersections in the county as far as accidents. He said Mr. Coleman had committed to the county and when the contract was received it obligated the State to give Fayette County \$327,000. He said the State had asked him to sign the contract but he would not sign it. He said the county had been negotiating and fighting with the State for the rest of the money. He said Fayette County's Director of Public Works Lee Hearn had informed him tonight that the county finally got the answer that it was

looking for and the State would bring this project up to \$370,000. He said the county could get all of the promises it wanted but the county would have to fight for every penny. He said road work would be done and remarked that there was road work in the current plan. He said there were six or seven projects in the 2003 and 2005 TIP. He said after six months of really hard work and negotiations the county finally got the Department of Transportation to give the county the money to build the bridge on the four lane project going into Peachtree City at S.R. 54 and S.R. 34. He pointed out that originally there was going to be a four lane highway with a two lane bridge. He said the county finally received \$871,000 more for that and this was now in the program and moved up to 2003. He said just because the county was going to say no to this project, it would not mean the end of road work. He said the county would go out there and fight for every single penny. He said this was not a shy Board. He called for the vote on this matter.

The motion carried 5-0.

NEW BUSINESS:

HEARING ON APPEAL OF STOP WORK ORDER PER CODE SECTION 8-262: ANTHONY J. CARTER FILED A WRITTEN NOTICE OF APPEAL ON FEBRUARY 15, 2002, WITH THE ENGINEERING DEPARTMENT. PURSUANT TO CODE SECTION 8-262 THERE SHALL BE A HEARING BEFORE THE BOARD OF COMMISSIONERS WITHIN 30 DAYS OF THE FILING OF THE WRITTEN NOTICE OF APPEAL:

Chairman Dunn remarked that this was an administrative appeal. He said one of the citizens had received a stop work order on his property. He said the citizen had appealed the stop work order and had a right to appeal. He said the Board was providing him the time this evening for his public appeal process. He said he wanted to read some information so that everyone would be aware of what was going on. He stated that this appeal was for the purpose of determining whether or not a stop work order which was issued to Anthony J. Carter on February 1st, 2002 by the Fayette County Engineering Department was properly issued under the circumstances and was consistent with the regulations contained within the Erosion and Sedimentation Control Ordinance of Fayette County. He said Mr. Carter, as the appellant, would have an opportunity to provide information to the Board to show why he believed the stop work order was inappropriate under the circumstances. He stated Mr. Carter would be provided fifteen minutes to present his information. He said once the appellant had provided this information, Mr. Ron Salmons the County's Engineer, would provide his information to the Board on why he believed the stop work order was appropriate under the circumstances. He said once Mr. Salmons concluded, Mr. Carter would then be given the opportunity to rebut any information that was provided by Mr. Salmons. He said after the rebuttal if any by Mr. Carter no further information would be provided to the Board. He said this Board would then make a decision as to whether to uphold the stop work order, to modify the stop work order, or to overturn the stop work

order. He asked Mr. Carter to come forward to present his information. He reminded Mr. Carter that he had no more than fifteen minutes.

Anthony Carter, Grooms Road, Fayetteville said he was surprised that he had been allowed to be on an agenda. He said he had asked Commissioner Wells to put him on the agenda and she would not return his phone calls. He said he had received an e-mail from Commissioner Wells stating that she would leave this up to the County Administrator Chris Cofty. He said the county did have a thirty day notice which Attorney Davenport had said they did not have the thirty day notice. He said Attorney Davenport would not let him admit the e-mail.

Chairman Dunn interjected that he was aware of the first time that Mr. Carter had asked to be on an agenda and it was not for an appeal. He said when Mr. Carter made a formal request for an appeal, the Board responded within the thirty day time frame. He suggested Mr. Carter proceed with the information that he had for the Board. He said he wanted to hear what Mr. Carter had to say about the stop work order.

Mr. Carter said this was about the stop work order. He said had called every Commissioner and even went to Chris Cofty's house. He remarked there was a red pick up truck parked there and Mr. Cofty would not answer the door. He said this was about the stop work order that was put on his driveway. He said in the driveway stop work order he had a letter from Public Works Director Lee Hearn. He said Mr. Hearn stated in the letter that the only work allowed on a right-of-way would be required to install the driveway pipe. He said this was what he was doing. He said he was trying to install his driveway pipe lower to let the water run freely. He said while in the process, he hit an old phone cable. He said the phone company asked him to stop his work until they could check it out. He said he did stop the work. He said the next day he came on the property there was a stop work order posted out there. He said this was when he began calling all of the Commissioners and going to Mr. Cofty's house. He said he could not reach anyone. He said according to the development regulations, unless it was an emergency the stop work order would be in writing and handed to the person doing the work or the owner. He said there would also be a method of correcting to get the driveway fixed again. He said he had not been contacted by anyone. He remarked that he had been contacted by e-mail from Steve saying that he could work within 300 feet of his house. He said Steve was the Senior Engineer in the Engineering Department.

Chairman Dunn clarified that Mr. Carter was referring to Steve Upchurch in the county's Engineering Department.

Mr. Carter said he had received an e-mail from Steve saying that he could work within 300 feet because past 300 feet was a flood plain. He said he was doing exactly that. He said

he had gotten another stop work order while he was working on his silt fence. He said his silt fence was on his trees. He said he was pulling out trees to compact the branches and leaves to improve the efficiency of his silt fence. He said he received a summons to go to court for that. He remarked that he had gotten his back hoe stuck. He said he drove his tractor to haul his winches and batteries to pull his back hoe out. He said he was stuck for one week. He said he received another summons for that to go to court. He stated time after time he had gotten everything corrected. He said he had to shut off his county water to get a stop work order removed. He said he shut off the county water and this was costing the county approximately \$20 per month. He said this was because the county required a check valve in the line. He said he did have a check valve in there and he had a proper line installed. He said the county had inspected that line and said that it was not good because it was a used water line. He said he had the regulation that said the used water line could be reused as long as it was used previously for water. He said the only way to get the stop work order removed was to dig up approximately 200 feet of the water line and have it tested and put it back. He said the alternative was to put in a well. He said he had plenty of water. He said he had his water cut off now and he asked Mr. Massey to remove the stop work order on the water line. He said then he called up Dave Borkowski and told him that the only stop work order that was left was the one he put on the driveway. He said Mr. Borkowski was a trouble maker and had stirred up everybody in Fayette County. He said Mr. Borkowski had stirred up David Mundt and also Richard Fehr. He said if it was not for Dave Borkowski, he would not be here today. He said Mr. Borkowski had gone around stirring up everybody. He said he received five summons in one day on account of him. He said he had a total of approximately eight summons now and he had them if the Board wanted to read them. He said all of the summons were illegal because they were not served properly. He said a summons was supposed to be delivered in person and in writing and not by e-mail. He said there was also supposed to be a way to correct the situation listed on the summons. He said under State law a director gives five days to correct the problem. He said if the problem was not corrected in five days, then the person would be issued a stop work order. He said this was the way that State law reads. He said the Fayette County development regulations do not have that. He said all that the county has if it was an emergency was that they could issue a stop work order on a post on the property. He said if it was a non-emergency then the notice must be in writing with corrective actions on how to remove the stop work order and it should be handed to the person doing the work or the owner of the property. He said not one of these except one from David Mundt that he had received by certified mail was done this way. He said it was about three months after his water line had been rejected that Mr. Mundt had sent the notice by certified mail. He said Dave Borkowski had said the reason he did not send a certified letter was because he would not accept certified mail. He said that was not true and he stated that he had never refused a certified letter that was delivered to him. He said the post office here usually puts a yellow card in your mailbox and the carrier will drive off and not deliver the certified mail. He said he and his wife

watch the carrier put the yellow card in the mail box and then drive off. He said then the person only has five days to pick up the letter. He said now the Marshals have been bringing him the notices. He said the Marshals had delivered five notices in one day and a couple more on another day. He said every time the Marshals come on his property they tell him that they have seen him pulling out trees and working on his silt fence which was legal. He said under the definition of a silt fence the definition stated a silt fence could be made out of anything as long as it works. He said Steve Upchurch had approved that. He said they had cited him with two stop work orders before he had even moved the house in there. He said he had all of his trees down there. He said the next day Steve came out and issued a stop work order because of no silt fence. He said he told Steve Upchurch that all of the trees around there were his silt fence. He said Steve called up Dave Borkowski on the phone and asked what was wrong with the silt fence and remarked that he was legal. He said Steve did not issue a stop work order as a result of that. He felt the county should switch people around in the Engineering Department and give Steve Dave's job because he knows more. He said Steve did not give people trouble. He said Dave Borkowski had a lot of power and he knew that. He said Dave used his opinion to show his power. He said not one of the stop work orders was legal. He said he was going to court on Monday with a jury trial because Dave screwed up again.

Mr. Carter further remarked that the law reads if someone gets more than six months in jail they would get a jury trial. He said he had been issued five stop work orders at one time and this would give him ten months in jail. He said because of that the State Court had to give him a jury trial. He said now he had requested a continuance after this hearing was over. He said if the Board would not give him a decision tonight then he would ask for another continuance so that it could give him a decision. He said Dave's problem was that he was backing up water on his neighbor's property. He said the neighbor had complained to him about it and he said he would fix the problem. He said the neighbor had a drainage ditch that he would fill in for him. He said the neighbor had said that he also had a couple of old shabby looking gum trees with vines growing on them and this might kill the trees. He said the neighbor did not want him to fill in the property. He said the majority of the water was on his neighbor's property. He said a little bit was on the county's right-of-way. He said he had asked the county for permission to repair that. He said the county said no and told him that he could just lower the pipe but not work on the county's right-of-way. He said as a result of that he had not worked on the right-of-way but he was issued a stop work order for working on the county's right-of-way when he was lowering his pipe. He said the pipe had been sitting there for almost two months. He said he had no access to his house and he still did not have any access. He said he had to drive across a drainage ditch higher up to get to his house. He said originally Dave had come over and said that he could dig a drainage ditch all the way to the creek and he said he could prove it. He said he called up Lee Hearn in the Road Department and told him that Dave had already approved this. He said he told Mr. Hearn that he would not do it and he asked Mr. Hearn

to do it. He said Mr. Hearn told him that he would not do it because it was too much work. He said Mr. Hearn told him that there were too many trees that would have to be cut down. He said Mr. Hearn told him that it was too much work and he was going to leave it like it was. He said he told Mr. Hearn that he was going to do it then. He said Mr. Hearn told him that he could not do it. He said Mr. Hearn told him that he would have to get a surveyor and survey that and draw plans up. He said Mr. Hearn told him that he would have to stay a great distance from the right-of-way. He said he asked Mr. Hearn what he considered to be a great distance and Mr. Hearn would not tell him. He said he took his second plan and turned the water across his driveway back to the original drainage ditch. He said it was working fine except that it had to go down another foot. He said when it goes down another foot and the slope was corrected on the right-of-way where it was graded all the way to the original drainage ditch. He said it had to be shortened a little bit and the water would run underneath his driveway and there would be no water backing up there.

Mr. Carter remarked that his problem was Dave who was the trouble maker. He said he had photographs to prove that the county was doing favoritism.

Chairman Dunn informed Mr. Carter that he had approximately three and a half minutes left to speak.

Mr. Carter discussed photographs that he presented to the Board relating to a water problem on a house and street next to him. He said he had complained to the Road Department about it. He said he had also spoken with the Commissioners about it. He remarked that nothing had ever been done about this until the man died. He said his next door neighbor died and the new neighbor was cleaning up the property. He said the new neighbor corrected the problem with the water backing up. He said this had been on a Commissioners' agenda about backing up water on the right-of-way. He said this related to the trees, branches and any garbage that the neighbor had. He said the Board needed to treat all people equally.

Commissioner Wells asked Mr. Carter if this problem was on Graves Road.

Mr. Carter replied it was on Grooms Road next to Mr. Waldon's house. He said Mr. Waldon was before the Board complaining about this situation all of the time.

Commissioner Wells remarked that the Board had heard about this situation several years ago.

Mr. Carter replied yes and noted that Mr. Waldon had died already.

Chairman Dunn clarified that the pictures presented to the Board did not reflect Mr. Carter's current problem.

Commissioner Wells agreed that they did not. She said this was where Mr. Carter had lived several years ago.

Mr. Carter said this just shows that the Board would not do anything about that particular water problem. He said the county had gone out there and patched a road a half dozen times a year on account of that. He said Mr. Waldon was causing the problem and the county would do nothing about it. He said the county said they could not work on private property.

Commissioner Wells said the Board had heard this issue approximately four to five years ago. She said this was an issue that did not have anything to do with today's agenda item.

Mr. Carter interjected that this was the same thing. He said the county was saying that he was backing up water.

Commissioner Wells remarked that this issue involved a different road and different location.

Chairman Dunn asked Mr. Carter to have a seat and the County Engineer would come forward. He said if Mr. Carter wanted to rebut anything that the County Engineer said then he would have that opportunity.

County Engineer Ron Salmons remarked that all land disturbance activities within the county required a land disturbance permit according to Section 8-251 with the exception of those cases that were listed in Section 8-243. He said to obtain a land disturbance permit under Section 8-251A, a person must have a plan developed and submitted to the engineering office for review and approval before the permit was issued. He said there was no cost associated with the county actually issuing the permit. He said in Mr. Carter's situation, the grading work associated with the construction of his house was exempted under Section 8-243, 4-A and B. He remarked, however, that the grading work in question which was the grading work at the road was beyond the scope of what was necessary to construct the house. He said before Mr. Carter performed any grading work near the road, he was notified verbally both by the Engineering Office and the County Administrator. He said Mr. Carter was also notified in writing on January 7th and again on January 11th, 2002 that a permit was required to do the grading work and what the requirements were to obtain the land disturbance permit. He said Mr. Carter did not comply with the ordinance and began the grading work. He said Mr. Carter constructed a small dam across the drainage way that comes under the Highway 85 connector and backed up water onto

county right-of-way and onto adjacent property. He said Mr. Carter began digging a ditch parallel to the Highway 85 Connector, which in the county's opinion was a safety hazard, constituted an emergency and this was the reason the county proceeded with issuance of the stop work order.

Mr. Salmons further remarked that prior to issuing the stop work order and citations, the Engineering Office did consult with the County Attorney to assure that the county was legally taking the correct action. He said the County Attorney had concurred with the Engineering Office's course of action. He said at that time the stop work order was issued on February 1st. He said the citation was actually written prior to the 30th and was hand delivered by the Marshal's Office on February 1st, 2002. He said the stop work order did constitute a legal written document according to legal council and it was similar to this. He said this particular one was issued by Steve Upchurch who was the Engineering Office's Senior Environmental Technician. He said it indicated that Mr. Carter was grading without a land disturbance permit. He said given the fact that Mr. Carter was told verbally and in writing what was necessary to do the grading work, the county felt that constituted written notification in several cases. He said that essentially in a concise manner was what occurred. He said he believed that the Engineering Office acted in an appropriate manner. He said he believed that the Engineering Office staff had gone the extra mile to try and work with Mr. Carter and to give him notification of what was necessary. He said he had met with legal council to assure that the Engineering Office's processes were correct. He said he believed they were and he respectfully requested that the Board deny Mr. Carter's petition.

Commissioner Frady asked for clarification as to whether or not there were five stop work orders.

Mr. Salmons replied that the appeal was for the initial stop work order.

Chairman Dunn asked how many stop work orders had the county issued to Mr. Carter.

Mr. Salmons responded that the Fayette County Engineering Office had issued one stop work order. He said Mr. Carter had received additional citations for continuing to work after failing to comply with the stop work order.

Chairman Dunn clarified that those were the citations that Mr. Carter had said he was being given. He asked if Mr. Carter had citations for other things as well from the Engineering Office.

Mr. Salmons replied no, not from the Engineering Office. He said he understood that Mr. Carter had a citation from the Building Permits and Inspection Office. He said that was a

different issue. He said the Engineering Office had only issued one stop work order and three citations because Mr. Carter continued to work after the stop work order was issued and failed to correct the situation which was to get a permit.

Commissioner Pfeifer asked if Mr. Carter had ever gotten a permit.

Mr. Salmons replied no, that Mr. Carter had never gotten a permit.

Commissioner Pfeifer clarified that this was not a suspension of a permit because there was no permit.

Mr. Salmons replied that Mr. Carter was exempted from the land disturbance permit for the construction of his house. He said the grading work that Mr. Carter was doing at this location was not necessitated to construct his home. He said the Engineering Office felt that was out of the scope of the exemption that was permitted in the ordinance.

Commissioner VanLandingham asked if there were other stop work orders that existed. He noted that the Marshal was nodding yes.

Commissioner Frady remarked that the reason this was somewhat confusing to him was because there were two of these counts that separately say stop work order. He asked which stop work order was being addressed tonight.

Marshal Earl Williams remarked that one of the orders was from Mr. Mundt's Office in the Building Department and one was from the Engineering Office.

Chairman Dunn remarked that the issue at hand here was a request by Mr. Carter dealing with only the stop work issued by the Engineering Office.

Mr. Salmons replied yes, it was his understanding that the stop work order was issued on February 1st.

Chairman Dunn asked if Mr. Carter was told what he had to do to fix the problem when he was issued the stop work order.

Mr. Salmons replied that Mr. Carter had been instructed prior to the stop work order and was also verbally told what he needed to do to correct the situation.

Chairman Dunn asked Mr. Salmons what was Mr. Carter told to do regarding the stop work order.

Mr. Salmons replied the stop work order stated that all deficiencies of work must be completed. He said in essence the stop work order basically said Mr. Carter was grading without a land disturbance permit. He said he had told Mr. Carter that he needed to get a land disturbance permit prior and since that time.

Chairman Dunn clarified that Mr. Salmons had issued a stop work order and required Mr. Carter to get a land disturbance permit. He said in order for Mr. Carter to do that he would have to come into the office and present a plan. He asked if Mr. Carter had ever done that.

Mr. Salmons replied no, he had not.

Chairman Dunn asked if anyone else had any questions and there were none.

Chairman Dunn asked Mr. Carter if had any rebuttal statements.

Mr. Carter replied yes, he did. He said he had a soil disturbance permit along with his building permit. He said this was perfectly legal. He said besides that under Division 3 Exemptions, Section 8-243, it states that any project involving one and one tenth acres or less providing however that this exemption does not apply to any land disturbance activity within 200 feet of State's waters. He said whatever he was doing he had a land disturbance permit, plus he was not working on the house. He said it was his understanding that when a stop work order was placed on someone's house then you could not work on your house. He said this would not stop someone from working on their twelve acres. He said none of the work that he had done was on his house. He said no one had notified him one time. He said he had spoken with the phone man and the next day there was a little red sticker on the post. He said if the Engineering Office had notified him he would like to see a copy of it. He said this would not count e-mails. He said Attorney Dennis Davenport said e-mails were no good in court and he asked why they should be good in this case. He said everything that he had done was legal. He said he had not worked on a house or violated any stop work orders. He said if the Engineering Department is saying the stop work order on his driveway did not pertain to his building it does. He said his driveway was real steep and he could not get a low boy trailer in there without building it up. He said he was building up his driveway which he was allowed to do. He said his original pipe was not low enough and therefore, he was lowering the pipe. He said he was allowed to do this by Lee Hearn. He said everything that he was doing was legal. He said he had not violated any stop work orders. He said he had a soil disturbance permit along with his building permit which covers everything. He said he also had the one and one tenths acres that were exempt from the soil disturbance. He said he could work anywhere on his land as long as he did not disturb more than one and one tenths acres. He felt this pretty much covered what he was working on. He said he had

never been notified by the Engineering Department other than Dave saying that he would be notifying him. He said Mr. Borkowski also indicated that he (Mr. Carter) did not accept certified mail. He said this was the only time that he was notified.

Chairman Dunn clarified that Mr. Carter had not been notified by the Engineering Department but had been notified by Dave.

Mr. Carter replied yes, he had seen Dave one day.

Chairman Dunn interjected that Dave was the Engineering Department.

Mr. Carter responded that Dave should have notified him in writing. He said it stated on the stop work order that unless it was an emergency a person must be notified in writing and the corrective action should be on that notification. He said this notification should be given to the owner or the person doing the work personally. He said Dave was not saying that this was an emergency so he did not have to do that. He asked if this was an emergency, why did his driveway sit open for almost two months. He said he had asked Lee Hearn to come out and put some cones out there right after the stop work order had been issued. He said Lee Hearn from the Road Department stated that he was not going to get involved in that. He said he asked Lee Hearn to come over and fill up the ditch. He said Mr. Hearn told him that he could not because the stop work order applied to him too. He said he had done everything that he could with the Road Department. He said he had not been notified properly. He said Mr. Salmons was lying when he said that he had notified him (Mr. Carter).

Chairman Dunn remarked that Mr. Carter said he did have a land disturbance permit and Mr. Salmons said he (Mr. Carter) did not.

Dave Borkowski of the Engineering Department said what printed out in Mr. Carter's building permit that he received was an erosion control permit. He said this was not a land disturbance permit. He said the erosion control permit stated that someone could go ahead and install erosion control measures on the property. He said it did not say anything about a land disturbance permit.

Chairman Dunn clarified that Mr. Carter had an erosion control permit. He said a land disturbance permit for a much bigger job would have to be obtained separately.

Mr. Borkowski replied that was correct.

Chairman Dunn asked if Mr. Carter had ever been informed that he needed another permit.

Mr. Borkowski replied yes, that a formal e-mail had been sent to Mr. Carter telling him that the grading for the construction of his houses was exempt and that was the reason he had only gotten the erosion control permit. He said if he was going to do anything else outside of the scope of the house he needed to come in and get a permit.

Mr. Carter asked why he was different from everybody else in Fayette County. He asked why anybody else could build a house and not have to get that special permit that Mr. Borkowski was referring to. He said he would like to quote the Board on the definitions. He said the definition of a soil and sedimentation plan was a plan for control of soil erosion and sediment resulting from land disturbing activities. He said he had that with the branches of his trees. He said this had been approved by Steve Upchurch. He said that was under definitions in Section 8-242. He said the definition of land disturbance activity was any activity which may result in soil erosion for water or wind and the movement of sediments in the State waters throughout the lands within the State including but not limited to clearing, dredging, grading, excavating, transporting, filling in the land but not including agricultural practices as described in Section 3. He said if these referred to land disturbance activities then he was not the only homeowner in Fayette County doing this. He said they were building homes in Fayette County by the thousands. He asked how many people in Fayette County get this land disturbance permit that was being referred to. He said the answer was nobody. He said he was the only one getting to do it because he was in a floodplain while three and a half acres of his land were not in the flood plain. He said he was not working in the flood plain. He said he was working on the three and a half good acres. He said he should not need any other permits than what he had from the Building Department. He said he had received a waiver from Dave for elevations and everything else. He said he put the house where Dave wanted it. He said Dave told him if he went 52 feet from the property line it was alright and otherwise he had to get a surveyor. He said he had done everything that Dave Borkowski asked him to do. He said there was no reason for Dave Borkowski to pick on him.

Chairman Dunn asked if anyone from the Engineering Department had anything else to add to this discussion.

County Engineer Ron Salmons said he and his staff really had nothing else to add. He said the Engineering staff had followed all procedures correctly and sought legal council when appropriate. He said staff had tried to enforce the laws as written and as he believed the Board wanted them to do so. He said he had nothing in addition to the facts that had been presented. He said he would be glad to address any questions that the Board might have.

Anthony Carter interjected that he was not satisfied with the Board's decision and he would appeal to the Superior Court. He said that was what the law stated.

Chairman Dunn replied that was exactly correct.

Chairman Dunn said the Board would take no further information from anybody unless any of the Commissioners had questions.

Commissioner Pfeifer said if no permit was issued then he could not see the ordinance that the hearing was being held on applied. He said it stated the hearing was for a suspension of a permit. He said the permit was not suspended because Mr. Carter never got one.

Attorney Davenport said he could address Commissioner Pfeifer's point with respect to the actual work that was being done on the property, just listening to the information from both sides, initially it was a kind of work that did not need a permit because it was exempted from needing the land disturbance permit. He said it was only when activity was detected at the site that was inconsistent with the exemption of the single family residence that Mr. Carter was put on notice that a permit was required. He said Mr. Carter was put on notice was through the stop work notice for him to stop work. He said it stated that Mr. Carter needed a land disturbance permit and this was posted on the property. He said he was aware that the language of Section 262 did talk about the suspension of a permit but in this case Mr. Carter was traveling under an exemption so the exemption kept him from needing that permit. He said the work that Mr. Carter did above and beyond suspended him from the exempt status.

Commissioner Pfeifer said the county was not stopping him from working on the exempted work that he was doing but was stopping Mr. Carter from working on the things that he did not have a permit for.

Attorney Davenport stated that was correct.

Mr. Carter interjected that he was working on his driveway.

Chairman Dunn pointed to Mr. Carter that his time was up.

Commissioner VanLandingham remarked that he saw no evidence this evening to change any of the status that had been existing for two months for the Commissioners to change any decisions that had been made thus far. He said he did not see where he could vote to change anything.

Commissioner Frady interjected that he did not see any changes that needed to be made. He said staff had followed the ordinances that were in place for them. He said under that he had no alternative but to make a motion to deny Mr. Carter's request to dismiss his appeal.

On motion made by Commissioner Frady, seconded by Commissioner VanLandingham to deny Anthony J. Carter's request to dismiss his appeal. The motion carried 5-0.

Chairman Dunn remarked that Mr. Carter's request had been denied by the Board and his next logical step if he chose to pursue it would be in the Fayette County Superior Court.

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CONSIDERATION OF PROPOSED ANNEXATION REQUEST FROM FAYETTEVILLE FOR 152.80 ACRES FRONTING ON LESTER AND OLD NORTON ROADS, ADJACENT TO STONEBRIAR SUBDIVISION. THE PROPOSED USE IS FOR APPROXIMATELY 140 RESIDENTIAL LOTS: Director of Zoning Kathy Zeitler asked if the Board had any questions on this request.

Chairman Dunn said he had no questions on the first one.

Commissioner VanLandingham questioned the exit on Old Norton Road out of this subdivision.

Attorney McNally replied there would be no entrance on Old Norton Road.

Chairman Dunn stated just for clarification, he suggested the Board not accept or reject it, but determine whether or not we want to file a formal objection to the City. He said he knew what Commissioner VanLandingham meant but he was just trying to get it phrased correctly. He asked him to rephrase it again.

On motion made by Commissioner VanLandingham, seconded by Commissioner Pfeifer that the Board of Commissioners formally lodge no objection against the annexation of the Stanley Estates' proposal from the City of Fayetteville. The motion carried 4-1 with Vice Chair Wells opposing.

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CONSIDERATION OF PROPOSED ANNEXATION REQUEST FROM FAYETTEVILLE FOR 53.55 ACRES FRONTING ON STATE ROUTE 314 AND PAVILION PARKWAY AND IS KNOWN AS PHASE 3 OF THE FAYETTE PAVILION: Chairman Dunn remarked that the developer had requested that this property be annexed into the City of Fayetteville.

Commissioner Frady said he would like to ask the City not to do anything that would allow traffic from New Hope Place. He recalled the Board going through this a few years ago

regarding that. He stated they have a driveway that suppose to be coming from the shopping center over to that property that fronts on 85 Highway.

Director of Zoning Kathy Zeitler interjected that had been covered under phase 4b.

Commissioner Pfeifer said he would like to make a motion.

On motion made by Commissioner Pfeifer, seconded by Vice Chair Wells to formally object to the annexation of 53.55 acres on State Route 314 and Pavilion Parkway, known as Phase III of the Fayette Pavilion, discussion followed.

Commissioner Pfeifer remarked that both of these requests should be denied on the basis that they were creating an island of unincorporated county. He said this request in particular was Phase III of the Fayette Pavilion where Belk's and Kohl's was located. He said in looking at the map and trying to discern what currently is Fayette County and what currently is Fayetteville and what would then be county and then be Fayetteville was quite difficult. He said he did not know how many of the people present tonight had the opportunity to look at some of the Congressional, State Senate or State House of Representatives Districts that the county had been gifted with by the State Legislature. He said these district lines were drawn with no community of interest and no apparent reason except for a goal that was in some people's minds for political reasons. He said the deeper that one looked into the maps they would be surprised about how bad they were. He said these districts cut through backyards, follow street right-of-ways, and run through woods. He said while he was going through the process of trying to figure out this annexation he had a very strong sense of deja vu trying to figure out what some of these legislative districts look like. He said the map in this portion of the county between the City of Fayetteville and the county had numerous islands and numerous effective islands. He said he could not support now or in the future any kind of annexation that would continue that process. He said he hoped that in some point in the near future that this Board could sit down with the City of Fayetteville and see what could be done to address some of these issues. He said the yellow portion of the map was currently the City of Fayetteville and the white portion of the map was Fayette County. He said one section of the Pavilion was being cut out. He said this would turn fourteen lots into an isolated piece of property which would be completely surrounded by the City of Fayetteville with the sole exception of an outlet onto State Highway 85. He said it was very difficult to tell but there may be some sort of a connection that would run along the bottom of the Pavilion property and then up S.R. 314 to connect back to this area of the county. He said he looked at this as disenfranchising the people who live here. He said these citizens would be completely surrounded by an entity over which they would have no control. He said those citizens would not vote in Fayetteville's elections yet everything that the City of Fayetteville does around them affects them. He felt it would be irresponsible for the Board to support this

in addition to the fact that as he read the annexation law, you could not at this point create by an annexation an unincorporated island.

Commissioner Frady said he did not see that the annexation would be any different from what it is at this time. He said the issue of accessing the highways would not matter. He said the only way that they could get there now was the way that they would go there then.

Commissioner Pfeifer asked Commissioner Frady if he would like to live in that section.

Commissioner Frady said the citizens had not objected to this the last time it came up. He said he did not recall hearing any objections from anyone. He said the only thing they asked was that they did not allow people to travel through New Hope Place. He said that was good enough for him if that suited the citizens. He felt personally that this being put into the City had a great advance because it would be put on the City of Fayetteville's sewer system instead of the one currently being used. He said he could not object to this and if there were citizens present who wanted to speak against this then he would like to hear from them. He said he could support this annexation.

Commissioner Wells said she was not sure that citizens had adequate notice to object to this item. She said the item had not initially been on the Commission Agenda. She said the fact that people may or may not be here to object was only one of the entities that the Board needed to look at. She said the Board was supposed to be proactive in looking out for the good of the voters who reside in Fayette County. She said that was just one piece of the pie. She said she agreed with Commissioner Pfeifer that an unincorporated island would be created. She felt this was unconscionable for the Board to allow that to happen. She said there had been problems in the past where some of the county residents were encroached upon by City residents. She said whenever they wanted to address a particular municipality about a concern, they were told that they had no standing at that particular hearing because they did not vote in the City. She said she was not sure that would be something that the Board would need to place the citizens in that predicament again in the future if it could be avoided.

Commissioner Frady said if the citizens were concerned about whether or not they had been notified, then this item should be tabled and citizens notified. He said this would give the citizens an opportunity to speak against it.

Commissioner VanLandingham asked if there was time to do that.

Chairman Dunn replied no because the Board would have to answer this right away. He said it was the City's responsibility to let the citizens there know what was going on. He said the history of this piece of property was very complex as well. He stated at one time

when the Pavilion was being built the developer wanted to be in the City and the City rejected that. He said now that the Pavilion was built the developer was asking to go into the City and apparently the City was receiving that well but he was not sure. He said the Board did not know what the City's decision would ultimately be on these annexations. He said by law the City has to notify the county and the county gets the opportunity to comment on them. He said as he understood the State law there were two issues about islands. He said one was that if there was an island in the middle of the City that was unincorporated county and they wanted to annex it, they could automatically annex it and the county would have nothing to say about it. He said the county would be getting one of those in the next month or so on another piece of property. He said the county would not be able to object to it by State law. He said that same laws also says that by virtue of an annexation an island could not be created. He said he agreed with Commissioner Pfeifer's analysis of this. He said it sure looked like to him that if this thing went through and they annexed Phase III of the Pavilion an island would be created which would be a violation of State law as it was understood to be. He said he would support the Board saying that it formally objected to this request.

Commissioner VanLandingham said he agreed. He said they could not close off a road to create an island. He said he did not think that the State provided that means of annexation. He felt what was happening was an island being created. He said it was his understanding that it was not prudent to do that. He said he could not support the annexation.

Chairman Dunn remarked that as he had reviewed the history of this, the Fayette County residents who live in and around the Pavilion had suffered enough. He said this was a huge money maker for some people but not for the people who lived near it. He said the law stated that an island could not be created.

Commissioner Frady asked for clarification from the attorney. He asked if there was a law that stated that an island could not be created.

Attorney Dennis Davenport responded that it was the law that an annexing municipality could not create an unincorporated island with the annexation. He said this annexation closes that one area that right now was opened to the unincorporated county. He said it would be closed off and would create an unincorporated island South of Phase III of the Pavilion.

Commissioner Frady said if the City could not do this by State law then it would not matter what the Commission did.

Commissioner VanLandingham interjected that the City might not have considered this.

Chairman Dunn remarked if the county did not object then the City would do it. He said then they would be an island and the next thing they would want to annex the island.

Commissioner Wells said it was the county's responsibility to object.

Commissioner Frady remarked that if this was against the State law then for that reason he would object.

Chairman Dunn felt if the Board did not register an objection then no one would even know that this was against State law and the developer would have their way.

Commissioner VanLandingham felt the actions of the Board tonight would prevent the City from developing it. He said he felt like it was going to be developed anyway.

Chairman Dunn said all the Board could do was object and that was all that could be done. He said the City would have to make a decision as to whether or not the State law should apply.

Commissioner Frady said if this objection was solely on State law then he would support it. He said the City was the one who would be responsible for breaking the law and not the county.

Chairman Dunn called for the vote.

The motion carried 5-0.

CONSIDERATION OF PROPOSED ANNEXATION REQUEST FROM FAYETTEVILLE FOR 5.14 ACRES FRONTING ON STATE ROUTE 85 NORTH AND NEW HOPE ROAD:

Chairman Dunn remarked that this request was for a piece of property quite close to the previous annexation request. He said this was referred to as Phase IV-B. He commented on the information that the Board had received from Mrs. Bradshaw. He said since this was not a public hearing, she would not be able to speak tonight. He assured Mrs. Bradshaw that the Board had read her information.

Commissioner Pfeifer said that he had driven down Mrs. Bradshaw's street the other night trying to figure out where lines were going. He asked Mrs. Bradshaw if she was the sole property owner that would still be in the county.

Mrs. Bradshaw replied yes.

Commissioner Pfeifer interjected that he found it incredible that someone would want to do that. He said he would like to make a motion.

On motion made by Commissioner Pfeifer, seconded by Vice Chair Wells to formally object to the annexation at State Route 85 North and New Hope Road. The motion carried 5-0.

Chairman Dunn remarked that just because the Board had made a motion to object to these annexations did not mean that they would not take place. He said it just meant that the Board was formally objecting to the two out of the three annexation requests for legal reasons. He said the City of Fayetteville would have to make a determination on all of these.

CONSENT AGENDA: On motion made by Vice Chair Wells, seconded by Commissioner Frady to approve the Consent Agenda as presented. The motion carried 5-0.

FIRE ACT GRANT PROGRAM: Approval of request from Fire Services to submit a grant application to the Fire Act Grant Program to upgrade and replace the self-contained breathing apparatus equipment.

FIRE SERVICES: Approval of request from Fire Services for authorization to dispose of used uniforms.

SHERIFF'S OFFICE: Approval of request from the Sheriff's Office to transfer funds in the amount of \$4,179 for damage to a patrol vehicle.

D.O.T. CONTRACT TSAP-920(4)C1 - McDONOUGH AND COUNTY LINE ROADS:
Approval to authorize the Chairman to execute the DOT Contract TSAP-920 (4) C1, for 0.019 of a mile for road improvements to the intersection of McDonough and County Line Roads. A copy of the Contract, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

FAYETTE PLAYERS & COMMUNITY THEATER - SIGN REQUEST: Approve request for Fayette Players & Community Theater to erect a sign on the courthouse lawn to advertise for a show called Nunsense, from March 25 through March 31, 2002.

PUBLIC COMMENT:

Members of the public are allowed up to three minutes each to address the Board on issues of concern other than those items which are on this evening's agenda.

Sallie Satherwaite: Ms. Satherwaite said she felt it was important for someone to speak up for the citizens in this county who believed that transportation alternatives were important. She said people needed choices and alternative transportation. She said among those citizens who would benefit the most from public transit were seniors who were uncomfortable with jammed interstates and hard to find parking, college students who now had to choose between the high cost of living in Atlanta or driving daily to and from Fayette County. She said there were enthusiasts of the cultural arts who relish Atlanta's resources but do not wish to drive especially at night. She said there was a small but deserving disabled population who could not drive and a surprising number of citizens in this county who could not afford to own a car and were essentially stranded. She commented that Peachtree City had not done a very good job with transportation. She said there were villages spread over about a six to seven mile radius to get from one to another. She said the same was true in the City of Fayetteville. She said no one was going to pick up a new screen door from Home Depot and then walk up to Kohl's or Wal-mart from there. She said transportation was needed even in the small areas of the county. She said Fayette County did need public transportation. She said there needed to be an open minded authority or commission within the county to put together a transportation plan that relied on something other than cars or road construction. She said there needed to be something like a tram that would circulate through the large shopping centers. She said there needed to be a shuttle looping through the county, linking government offices, Fayette Pavilion, Peachtree City shopping centers, the hospital and medical offices. She said with out huge airline population there needed to be links with Hartsfield Airport connecting with MARTA and downtown's entertainment, educational and business amenities. She said there needed to be bus service for openers and eventually commuter rail and regional train alternatives to air travel. She said only government was big enough to pull services like this together and it sounded a lot like GRTA. She commented the government must bring existing services like the MARTA system to accountability for safety, dependability and well maintained equipment. She asked why a community as large as this one not have even a rudimentary public transportation system. She remarked expensive, certainly, would it pay for itself, of course not, and neither did highways. She claimed we like to say that we do not need big government to do our planning for us, that we can take care of it ourselves, but why haven't we.

Ms. Adams: Ms. Adams from Fayetteville commented on public transportation and the reasons why Fayette County should have it for the citizens. She asked the Commissioners if they were afraid that if they opened up public transportation Fayette County would turn into another urban area like Atlanta. She asked if the Commissioners were afraid that because it would be open that public transportation would bring crime or other things into Fayette County and that Fayette County was not ready for urban traffic, African American

people or any other urban people to come down into the areas of Fayette County. She asked if the Commissioners were eager to say no because of those reasons. She said she would be attending an all black school in Atlanta and would not have a way to commute back to Fayetteville where her family lives and then go back to school every day. She said this would help out a lot of the students who were in a similar predicament. She said the commute was thirty to forty minutes every single day. She said public transportation would help out those people and would also bring business to Fayette County. She said restaurants in Fayette County would gain business because people would come down to visit Fayette County because they know it is a closed environment where they know they would be safe and have no problems. She said it would also bring money that would help build roads. She said she did not feel that it would bring crime. She said people in Fayetteville were really afraid to go to jail and stuff when they come down to visit. She said she had a lot of people who live in the metropolitan area who come down to visit and they look at Fayette County as a nice suburban area. She commented that they would not want to mess it up. She asked if this was the reason why Fayette County was afraid to bring down public transportation.

Chairman Dunn injected this was not a question and answer period. He thanked Ms. Adams for her comments.

Dan Rossi: Dan Rossi from Fayetteville congratulated the Board on its decision to deny public transportation to Fayette County.

Chairman Dunn interjected that transportation was an item on the agenda. He admitted Ms. Satherwaite worked around the Board. He asked Mr. Rossi if he had anything else to talk about so the county could keep its rules intact.

Mr. Rossi stated the Environmental Protection Agency from Washington, D.C., had basically extorted the State of Georgia. He said the federal government told Governor Roy Barnes that he needed to do several things to be in compliance with the Clean Air Act. He said the car emissions testing was just a way to make tax revenue for the government. He said the testing did not prove one way or the other whether the air was clean or dirty. He said the R.I.P. and the T.I.P. did not tell the county that it was going to get its \$14 million in roads. He said there were a lot of other things that the State could spend the money on such as urban development, bike paths, heavy rail and light rail. He said the county would not know what the State would spend the money on and the county would not have any say as to what the State could spend it on once the county gave them the go ahead to come down here. He said once the county gives up home rule, the State could come in and do whatever they wanted to do with the money. He commented on MARTA. He said the county could tell the State that once MARTA started turning a profit then they could start using the county's tax dollars to bring a bus system down here. He said right now MARTA was a failed system. He felt the use of tax dollars to build better and improved

roads would decrease the commute time of citizens back and forth to work and would be a little more efficient in his mind rather than throwing the money into an entitlement program to shuffle people around town.

Chairman Dunn thanked the public for its comments.

STAFF REPORTS:

TYRONE INMATE AGREEMENT: County Attorney Bill McNally asked for the Board's consideration in authorizing the Chairman to execute the Inmate Agreement from Tyrone on behalf of the county. He said the county had already entered into an agreement with Peachtree City and Fayetteville. He said this agreement was the same context. He said it was just that the Town of Tyrone had not signed their agreement until later in the game.

On motion made by Commissioner VanLandingham, seconded by Commissioner Pfeifer to authorize Chairman Dunn to execute the Jail Inmate Agreement with Tyrone. The motion carried 5-0. A copy of the Agreement, identified as "Attachment No. 3", follows these minutes and is made an official part hereof.

EXECUTIVE SESSION: County Attorney McNally requested an Executive Session to discuss three legal items and two items of real estate acquisition.

DISCUSSION OF BOARD RETREAT FOR SPLOST: Vice Chair Wells remarked there had been some discussion about having a retreat for a SPLOST and planning for that and possibly putting a SPLOST on the upcoming ballot. She said she would like to have some discussion tonight for the Board as a whole regarding that issue. She said if this was something that the Board seriously wanted to consider, it was woefully short on time as to getting this adequately publicized and getting the information out to the community. She said the Board would have to take a lesson from the Board of Education who had a failed SPLOST because there was not enough time to fully develop it. She said she was aware that there had been a lot of work going on. She said she just wanted to bring this up for discussion tonight to see if the Commissioners were comfortable to make a decision as to whether or not the Board wanted to expend time and funds on or was it something that would be put off until a later date.

Commissioner Frady said he had personally been told that the Board did have ample time to do this. He felt this was something that needed to be done. He felt this was something that needed to be done when the county received the funds to allow the public to decide how the jail should be paid for. He said he would have the information for the Board next week that would show exactly how much money the taxpayers could be saved. He said one comment was that the millage rate could be rolled back at least one mill next year.

He said there was time to do it and he felt it was something that needed to be done to save millions of dollars. He said this would save approximately \$30 million in tax payoffs. He said the money for the jail as it was currently being done would cost the taxpayers \$114.5 million to pay off a \$55 million debt over thirty years. He said by doing it this way we would pay off in less than four years and would pay them the amount less the interest we would have to pay between now and then. He said this would save the taxpayers approximately \$30 million. He felt this was something worth looking at and said he would continue gathering information.

Commissioner Pfeifer said he felt this was premature at this time. He said the county was just in the process of letting a contract to do a traffic study and in his mind that was the number one capital expenditure that the county would be looking at. He said he wanted to see the results of that before he would support a SPLOST for anything else.

Commissioner Frady said the Board would have plenty of time to look at the information and commented that it was almost ready. He said in the past the Board had always had a retreat in January or the first week in February. He remarked that this was the second year that the Board had not had that. He said the retreat was not just for local option sales tax. He said there were a lot of issues that the Board needed to do prior to staff preparing a budget that they needed direction as to which way to go and the Board was not doing that. He said the Board held a retreat last year in October/November and this was after the fact and it was not very productive. He said the Board could not give staff a direction to go in their budget hearings which would be starting this month. He said this was a concern of his and he felt this needed to be done. He said as he understood it, staff felt the same way. He said the retreat was something that the Board needed to do every year or discuss at the Wednesday meeting every month.

Commissioner Wells said she was not hearing that from staff. She said the county was just in the process of developing a C.I.P. She said a meeting was held as well as a retreat on October 18th, 2001. She said this was being done just as Commissioner Pfeifer was coming on board. She said the Board postponed a retreat because it would have been a ludicrous waste of the Board's time if a retreat had been held without a full Board. She said there were extenuating circumstances as to why we did not have our normally scheduled retreat. She said since the Board held a retreat in October and directed staff to begin working on a C.I.P. for the very first time where the Board was going to plan out the long range expensive items. She said this was currently in the process. She commented we were in the process currently of preparing the budget. She said she thought we were incredibly clear at the retreat as to the direction that the Board wanted to go during the next budget year. She said she did not see staff struggling in any way trying to figure out what they are funding and what the Board wants them to bring. She said quite frankly she was not going to support a SPLOST. She said she would not support a SPLOST on the next election. She said she felt it was premature. She said the

Board had discussed tonight that there were a number of transportation issues and not knowing exactly where the money would come from. She said the Board knew that these would have to be funded. She said capital improvements were also being looked at that would have to be funded. She said the Board had already voted as to how it was going to fund the jail. She said she knew Commissioner Frady had voted against it but that did not undo the fact that it had already been a Board decision. She said she was not aiming this particularly at Commissioner Frady but trying to get clarification so that staff was not being divided between working on the C.I.P., working on the budget and working on something that she did not feel was timely and something that she would not support. She said she was just trying to get this out in the open so that staff did not feel quite so torn.

Commissioner Frady remarked that the Board had just reconsidered an issue last week in the amount of \$11,000 that he recalled had already been voted on by the Board previously. He felt the SPLOST was a great issue and something that needed to be put up to the people to decide what they wanted to do. He said the Board not holding a retreat in January or February last year had nothing to do with Commissioner Pfeifer being new on the Board because Mr. Bost was still on the Board and we still didn't have the retreat. He pointed out that Commissioner Bost had resigned in April or May of 2001 and Commissioner Pfeifer came on the Board in November, 2001. He said the remaining four members of the Commission must carry on business to try and get staff lined up.

Chairman Dunn said he disagreed with how Commissioner Frady had characterized the last retreat. He said he thought it was the most productive one the Board had held. He said the Board had actually sat down and developed the initial stages of a complete planning, programming and budgeting system that this county had never had before. He said in the past things came up and if there was money they were built. He said there was not a whole lot of planning. He remarked that a couple of departments did better than others in planning. He said what the Board had tried to do during the retreat was to get into the 21st century as far as planning, how things would be programmed and how they would be paid for. He said staff had done a tremendous amount of great work. He said the Board had recently been briefed on all of the things that staff wanted to put into the master growth and management plan. He said there were principles in there which the Board would adhere to as it moves forward. He said the Board no longer wanted to be in a position where if somebody just came up with a good idea and there was money that it would be done. He said the Board said that it would lay out the future of Fayette County in a way that had never been done before. He said the staff had been doing tremendous work along those lines. He said he gets complaints from some of the staff too that while they are trying to work on this plan that they were being pressured to go out and get all kinds of information to support a SPLOST. He said the process that the Board had put into place in October was maturing right now. He felt that later this year the Board would have to have another retreat to see how well we have done with this process. He said the Board

would never get there if it got off track right now. He said there was a tremendous amount of things that people want. He said there was a tremendous amount of things that people would like to have as well as a tremendous amount of things that were needed in Fayette County. He said he agreed with Commissioner Pfeifer that the biggest thing in the future that the Board would have to worry about was roads. He said regardless of that, the Capital Improvement Program must be developed. He said the Board would have to decide first and foremost what the Board wanted to build in the future. He said the Board was working feverishly to put that program together. He said after the Board decided what the principles were and what would be built then there must be a funding strategy for anything that was decided to be done. He said a SPLOST was just one of many, many things that would be the strategy to build what the county decided to build. He said the Board had not decided what to build yet. He stated we were in a position now where we would be putting the cart before the horse. He commented when you do a SPLOST, you have to go and make that legal. He added you would have to have a list of things, exactly what you were going to do and what it was going to cost and when it was going to be done, and then you go out and fund it. He said at a time when we know exactly what we want and what we all agree as a Board to do as the future unveils itself, that was when we determine whether or not we need a SPLOST. He said this Board decided that we would have a thirty year bond on that jail and though you did not agree with us (Commissioner Frady) so that people who came to this county, ten, fifteen and thirty years from now could help us build that jail and pay for it. He called attention to the fact that if we had a five year SPLOST now, everybody here would have to pay everything. He said there would be a twenty percent sales tax in Fayette County. He added that we may have to have a SPLOST one day, but if we do he hoped it would be for the right reason. He commented he did not want to go willy nilly off into the sunset here saying, well we can get this much money so lets just take the money and build whatever we want with it. He said this was not the way to run a program and run this county government and to spend taxpayers money wisely. He said he agreed with his colleagues Wells and Pfeifer. He stated he agreed with Commissioner Frady in that a SPLOST could put a lot of money in Fayette County, but this was the wrong time to do it because we do not know yet what the combination of this Board and this staff was going to produce as far as a future for Fayette County.

Commissioner Frady said it did not seem to him that we were ever going to get to it because he asked to do the same thing the day we got the money through the Building Authority. He added everybody refused it then and he didn't understand why they refused it then. He said he asked that this be done because we got fifty-five million dollars to obligate the citizens on for one hundred and fourteen million without their permission. He said he was willing to do that because of the fact that we might not get the money, and we needed to get the money for the jail. He said he remarked then he would go along with getting the money through the Building Authority if we would let the people vote on how they wanted to pay for it. He said the Board refused then and you are refusing to put this

up now and he felt he was there to suppose these people as best he could. He stated he was going to continue to do that. He also said that Mr. Dunn was preaching to the choir when to talks about a CIP because he started to try to get a CIP nine years ago and if we keep going it was going to be another nine years if we don't get things done. He said he knew we were working on it and he was proud of it.

Chairman Dunn stated he had preached on a CIP since the day he became Chairman and now it has happened.

Commissioner Frady said he preached to Mr. Dunn about a CIP two years before he became Chairman.

Vice Chair Wells said it did not matter if Fayette County had the greatest CIP in the world and if did not matter if staff absolutely knocked themselves out and we have a state of the art piece of paper there. She commented if we did not have the means to fund it, it was just a pretty piece of paper and we do not know yet what we were going to be doing. She said at this point in time to go out and ask the citizens to support a SPLOST for an unknown purpose.....

Commissioner Frady interrupted Ms. Wells and said there would not be an unknown purpose on there. He asked if Ms. Wells thought he was crazy enough to do that.

Vice Chair Wells said she had an unknown purpose.

Commissioner Frady stated Ms. Wells had an unknown purpose because she has not sat down and gone through a program to put one together. He commented the CIP Program needed to be prioritized.

Chairman Dunn interjected he had yet to see anybody to say what we were going to do with it if we had it.

Commissioner Frady said that was what he was trying to do so you can say what you want to do with it.

Chairman Dunn said his point was why did we want it if we don't know what we want to build.

Commissioner Frady said he knew what we want to build and he thought everyone here had been here long enough to know that.

Vice Chair Wells said here in lies the rub.

Commissioner Frady said no, that was not a rub.

Vice Chair Wells said to Commissioner Frady that he knew what he wanted to build but she did not hear the Board say that's what they want to do and this is a Board of five Commissioners.

Commissioner Frady said yes it was a Board of five members and sometimes it isn't even that to be perfectly honest with you. He said he did know one thing and that was this needed to be done for the taxpayers and we need to do it and we have time to do it and he did not understand the refusal.

Vice Chair Wells said she would not do it. She stated she wanted this to be a Board decision.

Commissioner Frady said this would be a Board decision because he would bring it up. He added the only two things that he was concerned about on two issues was the fact that we could pay the jail off and save people money. He stated the county has to come up with seven to nine million dollars in the very near future to do 911 and we all know that. He said the Board knew we had to do roads. He remarked all we had to do was find out what roads you want to do and the study's being done. He commented that a study on the roads had been sitting here since 1990 which was not the fault of anyone in particular but we have only done one of the roads in the study and that was the Bernhard cut-through.

Chairman Dunn said that was another piece of the CIP process; we are having a study done on roads and we are just now trying to get the people in here to do it. He said that was exactly what the problem was, we had a road study done in 1990 or 1988. He stated the Board at that time said it was nice but they did not institute a planning program and budgeting system to make it happen so nothing happened.

Commissioner Frady said he was not blaming that on Chairman Dunn, he was just saying the county spent one hundred and ten-thousand dollars for something we never used but once.

Chairman Dunn commented the next time we have something we were going to have a plan, we will have a website to tell our citizens where the money was going and what it was going for.

Commissioner Frady said if we did a SPLOST they would know now. He added the time to do the SPLOST was now in his opinion.

Commissioner VanLandingham stated he wanted some clarification on something. He said further that Commissioners Wells and Dunn had received complaints from the staff and he asked how long ago this was.

Commissioners Dunn and Wells responded that this had been ongoing for months. They both stated they did not wish to get the staff in trouble.

Commissioner VanLandingham commented whether you do not want to get staff in trouble we have gotten there. He said maybe you did not want to but we are there. He stated he was the one who started talking about a SPLOST with the intention of getting information together that he could bring to the Board because very quickly he understood that this was going to be something much larger than one person. He said it was going to encompass the whole county. He commented the information was almost ready and could be presented now but there was something said about a couple of months. He said no one said anything to him about burdening the staff down with this. He asked Chairman Dunn where his responsibility was in telling him he was doing this. He said he talked to Mr. Dunn two weeks ago and this was mentioned, and he did not know that there was an exclusive on the staff that he could not use them.

Commissioner Wells said nobody said that.

Commissioner VanLandingham said no one had said anything to him about being burdened.

Chairman Dunn said he did not think anyone would tell him he was burdening staff.

Commissioner VanLandingham stated why would they say something to you and not to him as he was the one that did it. He said further that it seemed to him that there needs to be a

Chairman Dunn interjected the problem was the staff was working hard to fulfill the CIP requirements that this full Board laid on them and they did not have time to go off on one-hundred and eighty degree tangents.

Commissioner VanLandingham said he was flexible on the SPLOST. He commented it seemed evident that it was pretty well a dead issue right now and this was not an area of contention with him. He said further to let something fester like this, and have it brought out like this, in telling him that he should not burden the staff with something that he thought was for the good of the county was wrong. He said further if Mr. Dunn knew about this two months ago he should have said something to me then.

Chairman Dunn asked why Mr. VanLandingham was yelling at him and Mr. VanLandingham said it was you who told me that staff was fussing at you (Dunn) about what he (VanLandingham) was doing.

Commissioner Frady said that Chairman Dunn was participating in this. He also said he wished to make one more comment. He remarked the reason we did this bond and that we did not do a SPLOST was we would not get money from outside the county. He added that we would probably get thirty to thirty-five percent. He said Mr. Dunn, Mr. Bost and he did not know who else said they doubted if we would get twenty-five percent from outside the county. He said Mr. Bost said the percentage was even less than that. He stated the survey that was done was to try to get the information together since the concern was how much money would come in from outside the county and he had that information for him. He said the Marshal's did this and they did a great job with it. He said the information revealed that fifty-three percent of the people over a ten day period, that was trading in Fayette County Pavilion, was from outside the county.

Commissioner Pfeifer said the report did not say how much they spent and Commissioner Frady replied that if they were shopping there, they were spending money.

Commissioner Frady stated that Peachtree City was forty-three percent.

Commissioner Pfeifer said he did not see this as a valid study.

Commissioner Frady said our Marshals did that study and he had faith in them doing this.

Chairman Dunn said they counted license plates. He asked if the information took into consideration the fact that some of the people coming there from out of town might work there.

Commissioner Frady asked how else would he do it. He said to Mr. Dunn if he (Dunn) did not like that report then he didn't like anything. He said it was just the fact that he (Dunn) did not want the SPLOST to come up now and he did not understand that.

Chairman Dunn stated the way you would do that study would be to have a zip code study done by the businesses there, not counting parking lots.

Commissioner Frady said the businesses were asked and we were told they did not do that.

Chairman Dunn asked Mr. Frady if he had ever been in a store where they asked him what his zip code was.

Commissioner VanLandingham said the stores were company sponsored and he and Mr. Frady had already looked into this.

Chairman Dunn said you asked the company to do it.

Commissioner VanLandingham said the company would not do it for us but they do it for themselves.

Commissioner Frady said if Mr. Dunn was interested in this and wanted to do that and felt like we could really do something good then he would ask them for it.

Chairman Dunn remarked when we have a list of things that this Board was committed to doing, and the whole point here is that the SPLOST is not a bad thing, the SPLOST at this point was premature. He said that may be the desired funding strategy when we have worked out the CIP.

Commissioner Frady asked how close we were to working out the CIP. He said he thought we were right on top of it.

Chairman Dunn said that Mr. Frady had been briefed on what the principles were. He commented that we were going to start putting money into certain projects during this budget period, and all of the decisions have not been made yet but there was no need to rush to judgement.

Commissioner Frady said he felt we were just standing here waiting to put this with the Growth Management Plan so that we can send it downtown. He said this was all that it lacked and then we had to prioritize what we want on the CIP program and this did not take a master mind eight years to do that.

Chairman Dunn stated it took a lot of time for staff to do the work we have asked them to do and it takes a lot of thought and a lot of time for this Board to determine what the future of this county was going to be and a rush to judgement contributes to nothing but a waste.

Commissioner Frady said this was not a rush to judgement. He added this was a deferment of something that needs to be done.

Vice Chair Wells commented the reason she brought this up was just so that we could all be more cognizant of the staff's time. She added this was very much a crunch time for them. She remarked in addition to everything that she had mentioned, we were in the process of getting the new finance program on line and this was something that everyone of the department's were trying to intergrate and it was something that was very time consuming. She said she just wanted the Board members to all be conscious of the

requirements we are putting on the staff. She said they have their plate extremely full at this point in time. She stated she was not saying that anybody needs somebody else's permission to do any type of study. She remarked, however, that we needed to be cognizant of staff's time and the requirements we were putting on them. She said when we make that type of a request for staff she would be more comfortable if this was something the Board as a whole had decided we were going to do and were directing staff to do it. She said her discomfort in it was the fact that though everybody was entitled to ask staff for something, she thought it would be more considerate of staff to make it a Board decision or a majority of the Board decision before we request staff to do something extra at this point in time. She commented if this happened in June, after the budget, she would be much less concerned about it. She said further if it happened after GASB 34 was already implemented, and the CIP was already together, she would say now was the time for the Board to look for a SPLOST and we will need that information.

Commissioner Frady asked Finance Director Mark Pullium how long he had been working on GASB 34.

Mr. Pullium replied that he had been working on GASB 34 since he arrived here, about a year. He said this was an ongoing process and it was very complicated.

Commissioner VanLandingham said his last comment was if he had burdened the staff needlessly he apologized and if he caused misgivings on the Commissioners, he apologized. He said if he did something other Commissioners did not like he was sorry, but if he did something they did not agree with it, then that was their problem. He said to have a situation like this and tell him that he had wasted staff's time when no one talked to him about it before he said was terrible.

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EXECUTIVE SESSION: On motion made by Vice Chairman Wells, seconded by Commissioner Pfeifer to adjourn to Executive Session to discuss three legal items and two items of real estate acquisition after a five minute recess.

LEGAL:

County Attorney Bill McNally advised the Board concerning a legal matter.

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County Attorney Bill McNally advised the Board concerning a legal matter.

REAL ESTATE ACQUISITION:

The County Attorney briefed the Board concerning potential real estate acquisition.

On motion made by Commissioner VanLandingham, seconded by Vice Chair Wells to direct Mr. McNally to proceed with negotiations. The motion carried 3-2 with Commissioners Dunn and Pfeifer opposed.

REAL ESTATE ACQUISITION:

Attorney McNally briefed the Board concerning a matter of real estate acquisition.

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

LEGAL:

Attorney McNally briefed the Board concerning a legal matter.

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

EXECUTIVE SESSION AFFIDAVIT: On motion made by Vice Chair Wells, seconded by Commissioner Pfeifer to authorized Chairman Dunn to execute the Executive Session Affidavit affirming the discussion of three legal items and two matters of real estate acquisition. The motion carried 5-0. A copy of the Executive Session Affidavit, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

There being no further business to come before the Board, Chairman Dunn adjourned the meeting at 10:45 p.m.

Linda Rizzotto, Chief Deputy Clerk

Gregory M. Dunn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 11th day of April, 2002.

Linda Rizzotto, Chief Deputy Clerk