Minutes

Board of Commissioners
May 2, 2012
3:30 P.M.

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

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Wednesday, May 2, 2012, at 3:30 p.m. in the Public Meeting Room of the Fayette County Administrative Complex, 140 Stonewall Avenue, Fayetteville, Georgia.

Commissioners Present:	Herb Frady, Chairman Robert Horgan, Vice Chairman Steve Brown Lee Hearn
Commissioner Absent:	Allen McCarty
Staff Present:	Jack Krakeel, County Administrator Scott Bennett, County Attorney Carol Chandler, Executive Assistant Floyd Jones, Chief Deputy Clerk

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Chairman Frady called the meeting to order at 3:39 p.m.

Acceptance of Agenda:

Commissioner Horgan made a motion to approve the Agenda as presented. Commissioner Brown seconded the motion. No discussion followed. The motion carried 4-0. Commissioner McCarty was absent for the duration of the meeting.

PRESENTATION / RECOGNITION:

1. **Presentation by Becky Smith, Executive Director of Fayette FACTOR (Fayette Alliance Coordinating Teamwork, Outreach and Resources) concerning participating in a program known as the Underage Drinking Prevention Initiative.**

Executive Director of Fayette FACTOR Becky Smith and Dawn Oparah explained the grant that they were awarded for the Underage Drinking Prevention Program. The Board commended them on the work involved in obtaining this grant as well as this initiative to get teens as well as members of the community involved in this Program. A copy of this request, identified as "Attachment 1", follows these minutes and is made an official part hereof.

OLD BUSINESS:

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

Due to the absence of Commissioner McCarty, there was a consensus of the Board to place this item on the May 10, 2012 Board of Commissioners' meeting for discussion. A copy of this request, identified as "Attachment 2", follows these minutes and is made an official part hereof.

3. Further discussion of the proposed replacement of the bridge that crosses the Flint River on McIntosh Road at the Fayette and Spalding County border.

Public Works Director Phil Mallon began his presentation by saying the discussion at hand concerned the replacement of a bridge on McIntosh Road that crosses the Flint River at the Fayette-Spalding County border. He said this bridge replacement project was identified in Fayette County's 2003 Comprehensive Transportation Plan (CTP), and that it is eligible for Special Purpose Local Option Sales Tax (SPLOST) funds. Mr. Mallon told the Board that the bridge was originally built in 1950 and he spoke about the size of the bridge before he informed the Board that the bridge has a sufficiency rating of 9.2 out of 100. He explained that the lowest score possible on a sufficiency rating is zero, and that the highest and best score possible is 100. He also told the Board that the bridge has a low vehicle count of about 1,300 daily, and that the posted speed limit on the bridge is 35 miles per hour.

Mr. Mallon reminded the Board that in September 2009, the Fayette County Board of Commissioners approved the project to repair the bridge, and that since that time various and required pre-construction engineering studies have been conducted including environmental history studies and archeological studies. He also noted that since the approval, staff held a public meeting to talk about a detour for the bridge and to provide general information to the public. He explained that as progress continues toward the repair of the bridge, the County continually receives updated cost estimates, and that in December 2011, staff sent a detailed cost estimate to Spalding County along with a draft Intergovernmental Agreement clarifying each jurisdictions' responsibilities before an agreement is reached with the Georgia Department of Transportation (GDOT). He continued that Spalding County indicated they did not have enough money to pay their share so they asked Fayette County to "get" the GDOT to increase its level of funding. He reported that Fayette County took those efforts, as requested, and that the GDOT agreed to increase its funding from approximately $1.5 million to $2.2 million. Mr. Mallon reported that Fayette County then sent another updated draft Intergovernmental Agreement to Spalding County that reflected the GDOT's elevated level of funding. He reported that Spalding County again indicated that they did not have enough funding, and asked for either Fayette County or the GDOT to pay more for the project. He informed the Board that staff responded by putting the pressure back onto Spalding County for them to make a case to the GDOT for more funding, however, Spalding County has not been successful in its efforts. Mr. Mallon concluded his presentation by asking the Board's direction on how to proceed.

Chairman Frady asked how much money has Fayette County already spent on the project, and Mr. Mallon replied that Fayette County has already spent approximately $92,000. Chairman Frady recalled that on February 20, 2012 that he, County Administrator Jack Krakeel, and Mr. Mallon met with Spalding County Commission Chairman Eddie Freeman about this project, and asked for either a commitment or some feedback from Spalding County. He noted, however, that no information has been provided to Fayette County since that time. He continued that both he and Mr. Krakeel also called Mr. Freeman last week about the project, and that it seemed to him that Spalding County did not have money and that they had no hope of obtaining money for the project. Commissioner Hearn added that he had spoken to Spalding County Administrator William Wilson about this issue, and he was not given the impression that Mr. Wilson had received all of the needed information about this project. He then asked how much progress had Fayette County made in regard to completing its pre-construction engineering work. Mr. Mallon and Mr. David Jaeger of Mallett Consulting, Inc. replied that the environmental study was nearly complete and that preliminary plans had already been submitted to the GDOT. They stated that once the environmental work is completed, right-of-way acquisition could begin, and that the actual repair work was slated to begin in Fiscal Year 2014.

Commissioner Brown noted the bridge's low sufficiency rating and asked if the bridge was safe enough for a school bus or a fire engine to drive across. Mr. Jaeger replied that he would be very hesitant to recommend driving a fire engine across the bridge. Commissioner Hearn added that if a bridge had a 10-ton weight limit then it would be safe for a school bus to drive across, but he did not recall what the weight limit was for the McIntosh Road bridge. He also explained that the bridge's safety rating is determined by the GDOT who conducts bi-annual inspections of the bridge, informs the County how to "post" the bridge, and provides recommendations for repairs. He concluded that the bridge is safe based on the current posted loads. Commissioner Brown replied that his fear was that if the bridge continues in its current state without any repairs, and given the fact that there is an Automatic Aid Agreement between Fayette County and Spalding County, that as heavy fire engines cross the bridge to respond to emergencies they would be putting themselves into jeopardy. Commissioner Hearn agreed that fire engines did not need to cross the bridge. Commissioner Brown suggested that the Board should hold a serious discussion on this issue in order to possibly alter the Automatic Aid Agreement. He also asked if Mr. Krakeel had a position on County's agreement with Spalding County and utilizing the bridge. Mr. Krakeel replied that by not using the McIntosh Road bridge, alternative routes would have to be utilized even though those routes would increase emergency response times. He added that there were ways to modify the current agreement to ensure personnel are safe by not utilizing the McIntosh Road bridge.

Commissioner Horgan asked if Spalding County would pay for any work at all such as legal expenses for the procurement of right-of-ways. Mr. Mallon answered that the cost of acquiring right-of-ways would be split between Fayette County and Spalding County with each jurisdiction responsible for their own right-of-ways. Chairman Frady asked if SPLOST funds were already being used in the work, and he was informed they were being used pursuant to the 2003 CTP. Mr. Krakeel added that based on his conversations with counterparts in Spalding County, he was not under the impression that they held right-of-way issues as critical.

Commissioner Brown suggested, based on Commissioner Hearn's comments that the Spalding County Administrator seemed to not be completely informed on the project, that perhaps some of the Spalding County Commissioners were also unaware of the project. He suggested that Fayette County could make a presentation to the Spalding County Board of Commissioners with the possibility of gaining that County's support. Mr. Krakeel replied that he had called the Spalding County Administrator and did not receive a return call, and Chairman Frady agreed that the Spalding County Board might not be communicating. Commissioner Hearn agreed with Commissioner Brown's suggestion saying it would give a better understanding of Spalding

County's position, and he volunteered to take Mr. Mallon with him in order to make a presentation to the Spalding County Board of Commissioners. Commissioner Brown agreed by saying that Commissioner Hearn could go as a representative of the Board.

The Board consented to authorize staff to continue with the pre-construction engineering work required for the repair of the McIntosh Road bridge, and to authorize Commissioner Hearn and Mr. Mallon to present a case to the Spalding County Board of Commissioners. The Board took no formal action on this item. A copy of this request, identified as "Attachment 3", follows these minutes and is made an official part hereof.

NEW BUSINESS:

4. Discussion of funding the position of Constable for the Fayette County Magistrate Court.

County Administrator Jack Krakeel reminded the Commissioners that he provided a memo to the Board that he wrote to Chief Magistrate Judge Robert A. Rupenthal about a Constable position which was vacated two or three weeks ago. He said that when the position was vacated, he held a conversation with Judge Rupenthal about cost-saving efficiencies by not replacing the Constable position. He told the Board that this discussion was based on information he received from the Fayette County Sheriff's Department indicating they had the capability and capacity to fulfill the duties expected of a Constable. He said that during his discussion with Judge Rupenthal, the Judge expressed his concerns with the suggestion to replace the Constable position with Sheriff's deputies. Mr. Krakeel reported that he relayed to the Judge that he understood the concerns, but that his proposal was based solely from a cost-efficiency view and was not an attempt to undermine the Judge's authority. He continued that last week, he received a letter from Judge Rupenthal indicating that he intended to pursue filling the Constable position. Mr. Krakeel acknowledged that typically this type of issue is discussed during budget workshop meetings, however, since the Judge had expressed interest in filling the position, he thought it best to have the Judge discuss the issue with the Board. He clarified that the intention of this discussion was to give him direction on how the Board wanted to proceed and so that Judge Rupenthal could best determine how to move forward. Mr. Krakeel then invited Judge Rupenthal to speak to the Board.

Judge Rupenthal thanked the Board for giving him the opportunity to speak about Mr. Krakeel's proposal concerning the Constable position. He stated that he was against the proposal, but that his opposition was not based on an immediate reaction or an attempt to protect the position. He explained that is opposition to the proposal was formed after carefully considering the situation and what is best for his department, for Fayette County, and for the citizens. He suggested that the proposal was wrong and improper for three reasons, specifically: 1) the proposal was against the controlling statutes; 2) the proposal was bad policy and practice; and; 3) the proposal was "bad economics". His first position was that the controlling statutes, based on existing local legislation, authorized him to appoint a Constable. His second position was that the Constable position should not be "cast aside" so easily since the position was specialized and since there are 28 years of practice allowing the Magistrate Judge to appoint a Constable. His third position was that eliminating the Constable position was bad economics since the Constable, who makes about $58,000 a year in total, collected $164,848.25 in service fees last year. Concerning his third position, Judge Rupenthal stated that it would take two Sheriff's deputies to do the work of one Constable, and their work would be less efficient since the Constable position requires training and specialized work.

Chairman Frady agreed that the Magistrate Judge had the right to appoint a Constable, but the Board had an obligation to fund the position. He explained the Board might miss an opportunity to save money if it did not discuss this issue with the Judge, and that the County could save money by allowing a Sheriff's deputy to fill

the position. Judge Rupenthal disagreed that appointing a Sheriff's deputy to the position of Constable would save the County money, and he added that a fourth reason why he disagreed with the proposal was that citizens who rely on the Magistrate Court need a person who is able to properly serve papers. He realized that the Sheriff's deputies are good people who are trying, but, since they were prone to make mistakes the Court would have to correct mistakes while not being able to do so. Chairman Frady asked if the Judge was insinuating that Sheriff's deputies do not know how to serve papers. Judge Rupenthal replied that there was a particular way that the Magistrate Court trains its personnel to serve papers and that Sheriff's deputies do not currently know how to serve Magistrate Court papers right now– albeit they would improve given time. He repeated that one of his concerns was that when complaints came, whether in the short term or in the long term, he could only listen to the complaints but would not have the ability to solve the complaints.

Commissioner Horgan mentioned that when he came to the meeting he wanted to eliminate the Constable position and utilize the Sheriff's deputies in order to save money, but since he did not realize the history of the position and the amount of service fees collected by the Constable, his position had been swayed.

County Attorney Scott Bennett interjected that the Judge has the ability to appoint a Sheriff's deputy as Constable, just as he does when the Constable is away on vacation. He said that it was misleading to suggest that a Sheriff's deputy could not serve as a Constable. He agreed that the Magistrate Judge has the authority to appoint a Constable, but there was nothing in the law prohibiting the Judge from naming a Sheriff's deputy as Constable. Mr. Bennett also added that, regardless of who is appointed Constable, the same service fees would still be collected, and that the revenue would not fall off simply because a Sheriff's deputy is collecting the fees. Judge Rupenthal agreed that the same fees would be collected, but that it would take two Sheriff's deputies to do the work of one Constable.

Commissioner Horgan asked how many papers, on average, did a Constable serve each month. Judge Rupenthal replied that the annual total for 2011 was 4,270 papers, not to mention 322 evictions. He reminded the Board that evictions are very personal issue, spoke about the Landlord-Tenant Laws, and stated a Constable had to be physically present for evictions. Commissioner Horgan acknowledged that as a landlord he understood how touchy evictions could be and he understood the difference between a Constable showing up for an eviction versus a Sheriff's deputy.

Judge Rupenthal also expressed concerns about how proposal was being handled since, if the Board wanted to resolve this issue, it should have given him more than a week's time to prepare his case. Commissioner Horgan asked if the Constable's position had been budgeted. Mr. Krakeel replied that the position was in the current budget, and that he wanted to clarify some issues. First, Mr. Krakeel reminded the Board and the Judge that he does not approve budgets but that he recommends budgets to the Board. Judge Rupenthal agreed with that clarification. Second. Mr. Krakeel reminded the Board that this discussion came up since he was under the impression that Judge Rupenthal was going to start the process of filling the Constable position this week, and that was the reason why the proposal was being dealt with at this time as opposed to being heard at the budget hearings. Third, he apologized if he misunderstood the intention of Judge Rupenthal's letter, but it was clear to him that the Judge was intent on beginning the process of hiring a Constable this week. He agreed that even though he had a substantive and different opinion than Judge Rupenthal had on this matter, so he felt it was appropriate for the Judge to make his case prior to budget discussions.

Commissioner Brown mentioned that he too was unaware that the Constable position generated $164,000 in fees and that, understanding a newly hired Constable would make less than $40,000 a year, he did not think the Constable position was a problem.

Chairman Frady asked Judge Rupenthal if he had truly considered using a Sheriff's deputy as a Constable. Judge Rupenthal replied that he had studied that possibility, and had spoken to other Chief Magistrate Judges from other counties about that possibility. He answered that he was convinced that there would be problems if a Constable is not operating under a judge's direct authority, and those problems would be service problems that would increase complaints and reduce efficiency. He told the Board that people love living in Fayette County due to the service they receive, and that the Constable position had been fine-tuned, after 28 years of existence, in order to serve the people of Fayette County.

Commissioner Brown asked if the Board should place this discussion on the next possible agenda since Judge Rupenthal would "remain in limbo" until a decision was made. Commissioner Horgan asked if a Board decision was truly needed for this issue. Mr. Krakeel replied that Board action would not be required in this matter since his proposal would affect the proposed Fiscal Year 2013 budget and not the current budget. Chairman Frady reminded everyone that this discussion was for informational purposes only, and that since the County had not yet reached the end of the Fiscal Year 2012 budget, if Judge Rupenthal wanted to hire a Constable, he could do so. Chairman Frady added that when the discussions occur for the proposed Fiscal Year 2013 budget, this proposal could be further addressed at that time. Judge Rupenthal thanked the Board for hearing him and then left the meeting.

Mr. Krakeel clarified the intention of his proposal and stressed that he was not attempting to eliminate a position while someone was currently in the position. He explained that when the opportunity arose due to a vacancy in the position, he had a discussion to learn if the duties and responsibilities of a Constable could be absorbed by existing staff, and that he was informed by the Sheriff that his deputies could do the work. Mr. Krakeel continued that he understood Judge Rupenthal's concerns and he was empathetic to them, but that he also has a responsibility to the Board to attempt to find every opportunity to be as efficient as possible in light of the budgetary constraints. Chairman Frady replied that Mr. Krakeel did the right thing, that everyone respected the Judge's authority to appoint his own Constable, but that it was also understood that the Board had the responsibility to fund the position.

The Board consented to authorize the Chief Magistrate Judge to hire a Constable for the remainder of Fiscal Year 2012 as budgeted and consented to discuss the proposal further at the upcoming Fiscal Year 2013 Budget Workshops. The Board took no formal action on this item. A copy of this request, identified as "Attachment 4", follows these minutes and is made an official part hereof.

5. Discussion of staff's request for consideration of proposed amendments to the Fayette County Code of Ordinances, Chapter 3 Alcoholic Beverages, Article IV. On-Premises Consumption Dealers, Division 1 Generally, Sec. 3-180.6 Closing Hours, which would allow the Sunday sales of Beer, Wine, and / or Distilled Spirits for On-Premise Consumption.

Zoning Coordinator Robyn Wilson, representing the Planning and Zoning Department, informed the Board that the County had received requests from the five businesses licensed in Fayette County for on-premises consumption of alcohol, and that the County already allows "pouring" on Sundays. She informed the Board that the proposed amendments to the existing regulations would approve the requests by allowing approved establishments to sell alcohol by the drink on Sunday. Chairman Frady asked if the proposed amendments had any relation to packaged alcohol sales, and Mrs. Wilson replied the proposed amendments were not related to packaged alcohol sales. Mrs. Wilson explained that Georgia State Law allows for on-premises consumption on Sundays, however, the Fayette County Code of Ordinances does not. She clarified that if the Board chose to approve on-premises consumption on Sunday then it would have to amend the Fayette County

Code of Ordinances, but that decision would not require a Public Hearing. She then asked the Board if it wanted to proceed with the request, and if so, should she place the proposed amendments on the next Consent Agenda.

Commissioner Horgan asked who had requested on-premises sales on Sundays. Mrs. Wilson replied that Franks at the Old Mill, The Italian Oven, Metro Sports Bar, Whitewater Creek Country Club, and The Links made the request. Mrs. Wilson added that all of those establishments serve beer and wine, and that three of those five serve distilled spirits. She continued that if the two establishments who do not serve distilled spirits chose to do so, they would have to be approved by Fayette County since they would have to meet certain requirements such as setbacks in order to obtain the appropriate license.

Commissioner Brown asked what other jurisdictions were doing pertaining to this issue. Mrs. Wilson replied that other jurisdictions in Fayette County allowed for on-premises sales on Sundays. County Attorney Scott Bennett added that while he knew that Peachtree City allowed for on-premises sales he did not know what the other jurisdictions allowed. Chairman Frady said he had no problem moving forward with the request and placing the proposed amendments on the next Consent Agenda.

The Board consented to allow the proposed amendments to the Fayette County Code to be placed on the May 10, 2012 Board of Commissioners Consent Agenda. The Board took no formal action on this item. A copy of this request, identified as “Attachment 5", follows these minutes and is made an official part hereof.

6. Discussion by the Solid Waste Department of proposed amendments to the Fayette County Code, Chapter 19, Utility Regulations, Article IV, Solid Waste Management.

Director of Stormwater Management, Vanessa Birrell, stated that her proposed amendments were intended to delete sections of the Fayette County Code that are out of date, and she quipped that in this case, as it pertained to Solid Waste Management, all of the current sections were out of date. Commissioner Brown asked if the reason all of the sections are out of date was that all of the landfills are closed. Mrs. Birrell affirmed that the landfills are closed, except for a reserve section of a landfill, and that was why the Fayette County Code sections were out of date. Chairman Frady and Commissioner Horgan stated they had no problems with making the changes.

The Board consented to place the proposed amendments to the Fayette County Code on the May 10, 2012 Consent Agenda. The Board took no formal action on this item. A copy of this request, identified as “Attachment 6", follows these minutes and is made an official part hereof.

7. Discussion concerning a request from the Director of the Water System to allow Mallett Consulting to prepare specifications and to issue bids for the Flint River pump station at a cost of $19,750.00.

Water System Director Tony Parrott informed the Board that when the Flint River Pump Station first became operational it had the ability to pump eight million gallons a day from the Flint River, however, during the years that capacity has increased to fourteen million gallons a day, when available. He told the Board that pumping water at such a large capacity from the Flint River also includes pumping up “trash”, or debris, from the river that affects the pumps and causes serious damage to them. He noted that during the past winter, all of the pumps went out of service and the County lost flow that could have been used to supply Lake Horton. He informed the Board that one of the available options to correct the problem was a “trash screen” that continuously operates when the pumps are running and can be modified and placed into the pump house. He

reminded the Board that projects like the one requested would have to be engineered and would have to be approved by the State of Georgia's Department of Natural Resources' (DNR) Drinking Water Program. He mentioned that after the project is put out to bid that other vendors would be able to submit their bids if they have similar equipment that meet specifications. He closed his remarks by asking the Board for approval to have Mallett Consulting, Inc. conduct the engineering process and to start the approval process with the Department of Natural Resources.

Commissioner Hearn asked about how the trash screen would work. Mr. Parrott replied that the trash screen is a continuous loop, and as water is pumped in the "trash" is caught on the outside of the loop. He continued that as the trash reaches the top of the loop it dumps over a ledge and available water would then flush the debris back into the river. Commissioner Hearn clarified that the debris would not make it to the pumps, and Mr. Parrott agreed that it debris would not make it to the "wet well". Mr. Parrott mentioned that the current system in operation has a screen that has to be manually lifted up and cleaned, but due to the amount of water being pumped in, that system was no longer practical.

Commissioner Brown asked if this proposed system was the only system or method available, and if other alternatives had been researched. Mr. Parrott replied that vendors would be able to provide other options or alternatives during the bidding process, and that there is more than one vendor who manufactures traveling screens. Commissioner Brown asked if staff had settled on using the traveling screen with no other options. Mr. Parrott answered that staff intended to use the traveling screen, as proposed, but that, if a contractor wanted to provide the County with another option during the bid process, staff would consider it.

Commissioner Horgan asked how the project would be funded, and Mr. Parrott replied that the Water System has a budgeted Renewal & Extension Fund that would be used to pay for the project.

The Board consented to authorize staff to place the request on the May 10, 2012 Consent Agenda. The Board took no formal action on this request. A copy of this request, identified as "Attachment 7", follows these minutes and is made an official part hereof.

8. Discussion of a request from the Director of the Water System to allow Mallett Consulting to develop the specification package and to issue bids for the replacement of the Supervisory Control And Data Acquisition (SCADA) System at a cost of $12, 900.00.

Water System Director Tony Parrott informed the Board that the County's water treatment plants have a computer system, referred to as a Supervisory Control and Data Acquisition (SCADA) system, that enables plant operators to utilize various readings and to have various operational controls such as "tell[ing] what is in the water tanks, to turn valves off and on, to provide water to the City of Fayetteville, to know what is going on at the plant and at the different buildings since not every building is staffed." He told the Board that the SCADA system had been operation since it was first installed at the Crosstown Water Plant in 1986, and that the system had been added to since that time such as when the South Fayette Water Plant was built ten years ago. Mr. Parrott informed the Board that the Water System has reached a point where equipment for the SCADA system needs to be either rebuilt or replaced, and that the radio system was required to move from an analog to digital system. He concluded that staff was seeking the ability to address all of the issues at one time in order to meet the needs.

Commissioner Brown asked if these were packaged systems since he assumed that every water plant across the country had similar systems. Mr. Parrott replied that other water plants have different modules and have different systems, and that those different modules and systems are put together as a package. He continued that after the project is put to bid, interested vendors would be able to present their various packages or components for consideration.

Commissioner Hearn asked why a SCADA system was important to the County. Mr. Parrott replied that years ago, as an example, staff would have to be physically sent to water tanks to determine how much water was in them. Now, with the SCADA system, staff would be able to simply look at a screen to determine that information, and would be able to obtain other types of information such as the water pressure throughout various parts of the Water System, to be able to read valves, and to be able to read the flow of water.

The Board consented to authorize staff to place this request on the May 10, 2012 Consent Agenda. The Board took no formal action on this request. A copy of this request, identified as "Attachment 8", follows these minutes and is made an official part hereof.

ADMINISTRATOR'S REPORTS: County Administrator Jack Krakeel stated that the budget books for next week's budget meeting on Wednesday, May 9, 2012 at 5:00 p.m. were available and ready for the Board members to pick up.

ATTORNEY'S REPORTS: County Attorney Scott Bennett remarked on a newspaper article that appeared in the paper today the County Administrator Jack Krakeel's participation in the early retirement plan that was offered to 44 eligible employees. He said there was a suggestion to hire an outside attorney to review this issue as to whether or not it was legal. He said he had reviewed this issue and consulted with the Human Resources staff regarding GEBCorp who administers the retirement plan. He pointed out that the County had engaged the attorneys for GEBCorp to complete this plan to make sure it was compliant and met all of their standards and they determined that, under the terms of the plan, Jack Krakeel was an eligible participant in the plan and the early retirement option. He said he had also received from the Human Resources Director Connie Boehnke a copy of Mr. Krakeel's employment contract. He noted that in paragraph 14.1, the contract stated "the employee (Mr. Krakeel) shall be part of the County's general employee pension program and for purposes of an early retirement benefits shall be eligible consistent with the requirements for retiring members of the organization's public safety departments." He noted that when he began his employment as County Attorney, Mr. Krakeel was the Interim County Administrator. He said he was part of negotiating Mr. Krakeel's contract with the Board of Commissioners in 2008 as well as the contract renewal in 2010. He said one of Mr. Krakeel's concerns about taking the County Administrator's position was the fact that he had been a Fayette County employee for over 20 years and he did not want to give up what he had earned in retirement in the plan. He said Mr. Krakeel wanted to make sure he was eligible for whatever might occur with retirement. He stated that provision was specifically included to be "really clear". He said he did not feel there was a legal issue with regard to whether Jack Krakeel was eligible to participate in the plan. He remarked that Mr. Krakeel's contract states that he is eligible to participate in the plan and GEBCorp states that Mr. Krakeel is eligible. He said he did not know what possible legal argument or claim could be made that he is not eligible. He said there was a second part of the plan that was raised about whether or not Mr. Krakeel's participation in formulating the plan was an issue. He felt there were two issues to be considered there including (1) as part of the Board's retreat the plan was discussed thoroughly about what was being offered and what employees would be eligible which was only 6% of the County work force; and (2) currently the expectation was that approximately one half of the eligible participants would take the plan. He pointed out that this says something about where the plan falls from a generosity level and what employees would be getting from the plan. He said he did not see anything here that would raise red flags with him. He said he sees a plan where it was 50/50 for employees to take the plan.

Attorney Bennett said if the Board wanted to review this issue further, it was the Board's decision to make. He said he had looked at this and had reviewed this issue and he did not know what else could be done or what else could be determined. He said he just wanted to make the Board aware of the fact that he had reviewed this and these are the conclusions that he had reached. He said if the Board wanted him to look at anything else, he would be glad to.

Chairman Frady agreed with Attorney Bennett and he said this situation was part of the negotiations that took place that Mr. Krakeel would be put in a position to retire when he was ready and the Board voted on this package of retirement in order to save money in the approximate amount of $800,000 to $1,000,000 in funds. He said this was an opportunity that this Board gave to all of the eligible employees. He said it was unacceptable to him that anyone would even bring this issue up and he felt it reflected that they just did not know the facts.

COMMISSIONERS REPORTS: Commissioner Brown said he had submitted an e-mail to the Board to place an item on an agenda to discuss Mr. Krakeel proposing the defined benefit plan and now being eligible for the early retirement plan. He said the only issue that he had was someone in the position of authority who was orchestrating the plan, looked over the plan, and then decided to take the plan. He said if he had been aware of a proposed early retirement plan he would have suggested Mr. Krakeel step aside and someone else formulate the plan. He said he understood the County Attorney had reviewed this situation, but he was interested in having an independent authority look at it and someone who was not subject to the County Administrator. He said if that person says the plan is good, then he was 100% in favor of it.

County Attorney Scott Bennett emphasized that he does not work for Mr. Krakeel and does not answer to him. He said he works for the Board of Commissioners. He said if he thought that he was not competent, or prejudiced, or could not give an opinion, then he would not give one.

Commissioner Brown said personally he would feel more comfortable if an independent person could come in and look at the information. He repeated that if the outside person said the plan was "alright" then he would be fully in support of it.

Chairman Frady interjected that the plan came from GEBCorp, and that their attorneys "set up this early retirement plan". He said the County Attorney was asked to give the Board his opinion and he has done so. He said he was in favor of this plan and would not recommend spending more money to get another same opinion. He said this would be a waste of taxpayers' dollars.

Commissioner Horgan felt this discussion was "crazy", was an attack on the integrity of a man who has been with the County for 28 years, and was "totally uncalled for".

ADJOURNMENT:

Commissioner Horgan moved to adjourn the meeting at 5:07 p.m. Commissioner Hearn seconded the motion. No discussion followed. The motion carried 4-0. Commissioner McCarty was absent.

Floyd Jones, Chief Deputy Clerk

Herbert E. Frady, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 24th day of May 2012.

Floyd L. Jones, Chief Deputy Clerk