

BOARD OF COUNTY COMMISSIONERS

Charles W. Oddo, Chairman
Randy Ognio, Vice Chair
David Barlow
Steve Brown
Charles D. Rousseau



FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator
Dennis A. Davenport, County Attorney
Floyd L. Jones, County Clerk
Tameca P. White, Chief Deputy County Clerk

140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

MINUTES

January 14, 2016
7:00 p.m.

Call to Order by County Attorney Dennis A. Davenport

County Attorney Dennis Davenport called the January 14, 2016 Board of Commissioners meeting to order at 7:03 p.m.

ORGANIZATIONAL SESSION:

1. Election of Board Chairman for the year 2016.

County Attorney Davenport opened the floor for nominations for the Board Chairman for the year 2016. Commissioner Brown nominated Commissioner Ognio for Chairman. Commissioner Barlow nominated Commissioner Oddo for Chairman.

Commissioner Barlow moved to close the nominations. Several Commissioners seconded the motion. The motion passed 5-0.

Commissioner Brown moved to appoint Commissioner Ognio as Chairman. Commissioner Ognio seconded the motion. The motion failed 2-3 with Commissioners Barlow, Oddo, and Rousseau voting in opposition.

Commissioner Barlow moved to appoint Commissioner Oddo as Chairman. Commissioner Rousseau seconded the motion. The motion passed 3-2 with Commissioners Brown and Ognio voting in opposition.

Mr. Davenport yielded the meeting over to Chairman Oddo.

2. Election of Board Vice-Chairman for the year 2016.

Chairman Oddo nominated Commissioner Ognio as Vice-Chairman.

Commissioner Brown moved to close nominations. Commissioner Rousseau seconded the motion. The motion passed 5-0.

Chairman Oddo moved to elect Commissioner Ognio as Vice-Chairman. Commissioner Barlow seconded the motion. The motion passed 5-0.

3. Invocation by Vice Chairman Randy Ognio

Vice Chairman Ognio asked Senior Pastor Dr. Wallace McAbee of Sharpsburg Baptist Church to offer the Invocation. Pastor McAbee offered the Invocation.

4. Pledge of Allegiance

Commissioner Rousseau led the Board and audience in the Pledge of Allegiance.

5. Acceptance of Agenda

Commissioner Ognio asked to discuss New Business #28 prior to New Business #18, to add New Business #29 to the Agenda for the Purchasing Card Agreement, and to add New Business #30 as Homeland Security – Georgia Department of Transportation LMIG Emergency Funding.

Commissioner Barlow moved to accept the Agenda as published along with Commissioner Ognio's requests. Commissioner Rousseau seconded the motion. The motion passed 5-0.

PROCLAMATION/RECOGNITION:

6. Ceremonial Dedication of the 2015 Board of Commissioners' Official Photograph in honor of the late Commissioner Pota Coston.

Commissioner Rousseau and the Board, along with the Coston family, ceremonially dedicated the 2015 Board of Commissioners' Official Photograph in honor of the late Commissioner Pota Coston. A copy of the request, identified as "Attachment 1," follows these minutes and is made an official part hereof.

7. Recognition of Rusty and Carol Brown and Kevin and Terri Arnold for their selfless actions during the flooding crisis in December 2015.

Sheriff Barry Babb, EMA Director and Division Chief Pete Nelms, County Administrator Steve Rapson and the Board of Commissioners recognized all those involved in the response during the flooding crisis in December 2015. Those recognized included Rusty and Carol Brown, Kevin and Terri Arnold, and Brent Scarbrough and Company, Inc. A copy of the request, identified as "Attachment 2," follows these minutes and is made an official part hereof.

CONSENT AGENDA:

Commissioner Brown moved to approve the Consent Agenda as written. Commissioner Barlow seconded the motion. The motion passed 5-0.

8. Approval of authorization to sign checks combining any of the following two signatures for transactions at or above \$5,000.00: Chairman, Vice-Chairman, County Administrator.

9. Approval of authorization to sign checks for transactions in the amount of \$4,999.99 or less: Chairman, Vice-Chairman, County Administrator.

10. Approval of the Chairman, Vice-Chairman, and the County Administrator to execute contracts, resolutions, agreements, or other documents approved by and on behalf of the Board of Commissioners.

11. Approval of the County Clerk's recommendation to adopt the revised 2016 County Commissioner Meeting Schedule.

Commissioner Brown asked everyone to pay attention to the new meeting schedule since there will be some meetings beginning at 3:00 p.m. as opposed to 7:00 p.m. in order to attend training. A copy of the request, identified as "Attachment 3," follows these minutes and is made an official part hereof.

12. Approval of staff's recommendation to declare the property (Fire Station No. 3) located at 935 Senoia Road, Tyrone, Georgia as no longer needed and will no longer be used by Fayette County, and authorization to lease the property to a private individual through a bid process. A copy of the request, identified as "Attachment 4," follows these minutes and is made an official part hereof.

13. Approval of the proposed 2016 Local Maintenance & Improvement Grant (LMIG) project list for unincorporated Fayette County and authorization for the Chairman to sign the LMIG Application and related documents. A copy of the request, identified as "Attachment 5," follows these minutes and is made an official part hereof.

14. Approval of a request from the State Court Judge to accept a supplemental grant award from the Funding Committee of the Council of Accountability Court Judges in the amount of \$1,680.00, to authorize the expenditure of 10% local matching funds in the amount of \$187.00, and to authorize the Chairman to sign any grant-related documentation. A copy of the request, identified as "Attachment 6," follows these minutes and is made an official part hereof.

15. Approval of the disposition of tax refunds, in the amount of \$735.01, as recommended by the Tax Assessor's Office. A copy of the request, identified as "Attachment 7," follows these minutes and is made an official part hereof.

16. Approval of the Water Committee's updated 2016 Meeting Schedule. A copy of the request, identified as "Attachment 8," follows these minutes and is made an official part hereof.

17. Approval of the December 10, 2015 Board of Commissioners Meeting Minutes.

OLD BUSINESS:

There were no items of Old Business.

NEW BUSINESS:

18. Consideration of a recommendation from the Selection Committee, comprised of Commissioners David Barlow and Charles Rousseau, to appoint Becky Smith and Theodore Toles to the Fayette County Board of Health for a six-year term beginning January 1, 2016 and expiring December 31, 2021.

Commissioner Barlow recommended Mrs. Smith and Mr. Toles for the Fayette County Board of Health and he spoke of the selection process. Commissioner Rousseau thanked those who offered themselves for service on the Board and he said the nominees would bring new energy and insight to the Board of Health.

Commissioner Barlow moved to approve the recommendation from the Selection Committee, comprised of Commissioners David Barlow and Charles Rousseau, to appoint Becky Smith and Theodore Toles to the Fayette County Board of Health for a six-year term beginning January 1, 2016 and expiring December 31, 2021. Commissioner Rousseau seconded the motion. The motion passed 5-0. A copy of the request, identified as "Attachment 9," follows these minutes and is made an official part hereof.

19. Consideration of a recommendation from the Selection Committee, comprised of Vice Chairman Randy Ognio and Commissioner David Barlow, to re-appoint Therese Ocheltree to the Fayette County Board of Tax Assessors for a six-year term beginning January 1, 2016 and expiring December 31, 2021.

Commissioner Ognio stated there were some excellent applicants for the position including Mrs. Ocheltree who has been a long-term member on the Board. He appreciated her dedication to the Board.

Commissioner Ognio moved to approve the recommendation from the Selection Committee, comprised of Vice Chairman Randy Ognio and Commissioner David Barlow, to re-appoint Therese Ocheltree to the Fayette County Board of Tax Assessors for a six-year term beginning January 1, 2016 and expiring December 31, 2021. Commissioner Barlow seconded the motion. The motion passed 5-0. A copy of the request, identified as "Attachment 10," follows these minutes and is made an official part hereof.

20. Consideration of a recommendation from the Selection Committee, comprised of Chairman Charles Oddo and Commissioner David Barlow, to re-appoint William Beckwith to the Fayette County Zoning Board of Appeals for a three-year term beginning January 1, 2016 and expiring December 31, 2018.

Chairman Oddo stated that Mr. Beckwith had served admirably on the Zoning Board of Appeals and his re-appointment would continue to bring consistency to that Board. Commissioner Barlow concluded that Mr. Beckwith is highly qualified for the position.

Commissioner Barlow moved to approve the recommendation from the Selection Committee, comprised of Chairman Charles Oddo and Commissioner David Barlow, to re-appoint William Beckwith to the Fayette County Zoning Board of Appeals for a three-year term beginning January 1, 2016 and expiring December 31, 2018. Commissioner Ognio seconded the motion. The motion passed 5-0. A copy of the request, identified as "Attachment 11," follows these minutes and is made an official part hereof.

21. Consideration of Resolution 2016-01: Resolution of the Fayette County Commissioners Pledge to Citizens and County Staff on Core Values and Beliefs.

Chairman Oddo stated that this resolution was first passed in 2013 and has been re-affirmed each time a new Commissioner is elected to the Board. He mentioned that the resolution will be placed in the back of the room as a reminder to all of the Board's pledge.

Commissioner Ognio moved to adopt Resolution 2016-01: Resolution of the Fayette County Commissioners Pledge to Citizens and County Staff on Core Values and Beliefs. Commissioner Rousseau seconded the motion. The motion passed 5-0. Copies of the request and Resolution 2016-01, identified as "Attachment 12," follow these minutes and are made an official part hereof.

22. Consideration of Ordinance 2016-01 amending the Fayette County Code of Ordinances, Article VI of Chapter 28 pertaining to stormwater services and to amend the amount charged by Fayette County as a late fee for delinquency in payment of the stormwater fee.

Environmental Management Director Vanessa Birrell briefed the Board on both New Business Item #22 and #23. She stated that at the 2015 Board of Commissioners' Retreat, the Board provided consensus to proceed with changing the late fee for stormwater services from a 10% annual fee to a \$25.00 flat fee. She then gave a PowerPoint presentation on the matter.

Commissioner Ognio asked if the fee was retroactive and he was informed that it was not retroactive. Commissioner Ognio hoped that this effort would bring in unpaid funds so that everyone was paying stormwater infrastructure.

Commissioner Rousseau asked if any study had been conducted to determine why people do not pay on time. Ms. Birrell replied that there had been some research that indicated some residents do not pay since they no longer own the property, and she reported that staff is working to identify those residents. She mentioned there are others who have not paid their bills since 2012. Commissioner Rousseau asked how the county could assure it would collect the late fees. County Administrator Rapson replied that by increasing the late fees many of those who consistently refuse to pay would eventually owe enough in late fees that their accounts could be turned over to third-party bill collectors. He said the primary collection of late fees is being handled by the Environmental Management Department, and he clarified that any additional efforts to collect the funds

would first require Board approval. Commissioner Rousseau asked about offering amnesty for those who have not paid. Ms. Birrell replied that she and staff work with residents who have not paid the stormwater fees. Mr. Rapson added that staff would use reasonable judgment for collecting the late fees and he stressed that staff was trying to treat everyone fairly.

Walter Hopewell: Mr. Hopewell suggested that the stormwater bill should be included with the regular water bill. He asked why a separate bill was issued for stormwater fees.

Mr. Rapson replied that the stormwater fees were invoiced separately from the water bills because they involve different customer bases. He explained that some people are on wells so they do not receive a water bill; however, they still are required to pay for stormwater services.

Commissioner Brown moved to adopt Ordinance 2016-01 amending the Fayette County Code of Ordinances, Article VI of Chapter 28 pertaining to stormwater services and to amend the amount charged by Fayette County as a late fee for delinquency in payment of the stormwater fee. Commissioner Rousseau seconded the motion. The motion passed 5-0. Copies of the request and Ordinance 2016-01, identified as "Attachment 13," follow these minutes and are made an official part hereof.

23. Consideration of Resolution 2016-03 establishing a Stormwater Utility Late Fee for delinquent payments of the stormwater fee.

Commissioner Ognio moved to adopt Resolution 2016-03 establishing a Stormwater Utility Late Fee for delinquent payments of the stormwater fee. Commissioner Barlow seconded the motion. The motion passed 5-0. Copies of the request and Resolution 2016-03, identified as "Attachment 14," follow these minutes and are made an official part hereof.

24. Consideration of Resolution 2016-04 establishing Qualifying Fees for the 2016 elections in Fayette County.

Commissioner Ognio moved to adopt Resolution 2016-04 establishing Qualifying Fees for the 2016 elections in Fayette County. Commissioner Rousseau seconded the motion. The motion passed 5-0. Copies of the request and Resolution 2016-04, identified as "Attachment 15," follow these minutes and are made an official part hereof.

25. Consideration of staff's request to accept a GEFA grant / rebate to install an Electric Vehicle Charging Station at the Stonewall Complex or another designated Fayette County location as necessary and to fund a match of \$6,827.50 from project contingency for this purpose.

Commissioner Ognio informed the audience that additional information was on the dais.

Fleet Maintenance Director Bill Lackey reminded the Board that in 2014 the county was offered an opportunity to apply for a grant for the charging station but, even though the grant was approved, the grant funding ran out before the charging station could be installed. He said the county recently received notification that additional funding had become available and he asked for the Board's approval to receive the funding. He explained that the grant funds would pay for two dual-port charging stations enabling the county to charge four vehicles at once. He added that there were two proposed locations for the charging station with the first location being next to Heritage Park where the mailbox and newspaper stands are located and with the second location being across the parking lot near State Route 54. Mr. Lackey concluded that the county could charge fees for those using the charging station and that the fees could be adjusted if needed, and he told how the users would be charged.

Mr. Rapson mentioned some of the Commissioners had asked how to have the stations with zero cost to the county. He explained that staff estimates there are 180 electric vehicles in the Fayette County area and that, if they recharged for four hours each during the course of the year at a recommended cost of \$1.50 per hour, the county would not only recapture the cost for the networking and integration of the system itself but it would also recapture the cost for electricity. Mr. Rapson added the Board would need to consider whether or not it would charge a fee to use the charging stations and, if it decided to charge a fee, then the fee would probably need to be re-adjusted after hard figures become available. He mentioned that

the county would be locked into paying the \$850.00 for networking for the first three years since the grants are subsidized and all the information gets reported to the primary granting agency. He added that the county would pay \$6,827.00 up front but that is net of the funds the county would receive from Georgia Power's rebate program and the grant itself.

Commissioner Ognio asked who would be responsible for maintaining the equipment. Mr. Lackey replied that the county would be responsible and that there is a warranty for the charging stations. Commissioner Ognio pointed out that the county needed to pay for the charging stations due to maintenance upkeep and other incidentals. He added that the county should not give some citizens something without giving it to others. Mr. Rapson stated that other jurisdictions have a wide range of charges and those who provide the charging stations for free justify that decision since they provide other free services such as libraries.

Commissioner Rousseau asked if there was any way to find out from the tag office how many electric vehicles are in Fayette County. Mr. Lackey replied that the Tax Commissioner's Office provided that information last year but he had not been provided current information. Commissioner Rousseau pointed out that there was a lack of information on how many would use the charging stations and how much to charge, and he asked how the county would recoup its costs. He asked if there were alternative locations that the county could use where the charging stations would get greater use such as parks and the library. Mr. Lackey replied that he had reviewed the library and the Justice Center for possible locations but that there were not really good places for the charging stations.

Commissioner Ognio stated the second proposed location was his preference.

Commissioner Brown asked if there was a universal plug for the vehicles. Mr. Lackey replied that the charging station would be fitted with universal plugs although they might not work on a Tesla. Commissioner Brown stated that he would have a problem with placing the charging station near the newspaper stands and the mailbox but that he would support placing the charging stations near State Route 54. He asked if staff had approached Main Street Fayetteville about sharing the cost for the charging stations since many who would use the charging stations would likely patronize the shops and restaurants in the immediate vicinity. Mr. Lackey replied that staff had not approached Main Street Fayetteville.

Commissioner Ognio stated that the charging stations would not provide the fastest charges, but Mr. Lackey replied that the proposed charging station would charge a vehicle in two hours. Commissioner Ognio asked if an ordinance or resolution needed to be adopted in order to control the parking spaces. Mr. Lackey replied that fees are charged to the user so long as the vehicle was plugged irrespective of whether or not the user is charging their vehicle. Mr. Rapson clarified that the county would have to pass an ordinance in order to issue citations to those who would abuse the parking and it would be enforced through either Code Enforcement Department or the Marshal's Department.

Commissioner Rousseau asked if the county fleet includes electric vehicles. Mr. Lackey replied that it does not but that he would make the request for electric vehicles as soon as practical. Chairman Oddo mentioned that the county was ahead of the curve on this issue so it is a learning experience. He suggested that there would eventually be a day when private businesses would take over the market and that the county would no longer provide charging stations.

Greg Clifton: Mr. Clifton stated that, based on his experience as the immediate past mayor for the City of Fayetteville, he thought the city would be favorable to funding the charging stations. He suggested alternative locations around the downtown Fayetteville Square, including private property that could be utilized for charging stations. He suggested that putting the charging stations at either of the proposed locations was problematic since that the city uses county property for special events.

Frank Gardner: Mr. Gardner said he did not understand why the City of Fayetteville was not a leader on this proposal. He pointed out that Councilman Oddo was in the audience and he asked for the councilman's thoughts.

Paul Oddo: Fayetteville City Councilman Paul Oddo stated that he was not speaking with the authority of the City Council, but that he would bring the matter to the city council to see if they wanted to participate with the proposal.

Commissioner Brown assumed there would be signs stating the county is not liable to damages to vehicles that could be incurred from the charging stations. Mr. Davenport presumed that liability would be covered in the warranty information. He acknowledged that the county would have some exposure if something went wrong and that the Board should be cognitive of that exposure. Commissioner Brown asked if there would be signs at the charging station saying the user does so at their own risk. Mr. Rapson replied that the charging stations would be added to the county's property insurance as an asset so there would be coverage under liability insurance. He agreed with Mr. Clifton that locating the charging stations on private property would be beneficial but there was no way to do so. He stated that this project would either be a "home run" or it would be a project that slowly catches up with demand.

Mr. Rapson replied that staff would evaluate the potential liability and, if it determines there is too much exposure, it would come back to the Board with a recommendation not to proceed. Commissioner Ognio asked if the money would allow for bollards to be installed and Mr. Rapson replied that bollards would be installed.

Commissioner Ognio moved to approve staff's request to accept the GEFA grant / rebate to install an Electric Vehicle Charging Station at the Stonewall Complex or another designated Fayette County location as necessary and to fund a match of \$6,827.50 from project contingency for this purpose, to approve a \$1.50 per hour fee. Commissioner Barlow seconded the motion.

Commissioner Ognio amended his motion to only include Location Option #2. Commissioner Barlow seconded the amendment to the motion. Discussion followed in order to amend the motion.

Commissioner Ognio amended his motion to approve staff's request to accept the GEFA grant / rebate to install an Electric Vehicle Charging Station at the Stonewall Complex or another designated Fayette County location as necessary and to fund a match of \$6,827.50 from project contingency for this purpose, to approve a \$1.50 per hour charge fee, to utilize the Option #2 location, for the county to look at the liabilities with the purpose of returning to the Board if needed, and for staff to consult with Fayetteville Main Street for possible funding. Commissioner Barlow seconded the amended motion. The motion passed 5-0. A copy of the request, identified as "Attachment 16," follows these minutes and is made an official part hereof.

26. Update on damages and repairs to Fayette County's roads from the December 2015 Floods and requested approval of staff's recommendation to reallocate / loan \$997,529.00 to the Stormwater Utility in FY 2016.

Public Works Director Phil Mallon updated the Board on damages and repairs to Fayette County's roads from the December 2015 Floods. He pointed out that New Business items #26 and #27 were closely tied together. He told the Board that the events that took place over the past three weeks were among the most damaging that he had seen since the flooding caused very serious problems. He stated that Public Works had been working in emergency response mode to address the problems but that it was moving out of that mode to a more normative operation. He reminded the Board that it had been aware of the aging stormwater infrastructure and of the effects a large storm event could have. Mr. Mallon then utilized a PowerPoint to show nine separate stormwater pipe locations and their various damages throughout the county.

Commissioner Brown noted that the county no longer uses galvanized pipes but instead it uses concrete pipes, and Mr. Mallon agreed with Commissioner Brown's assessment. County Administrator Steve Rapson reminded everyone that at the Stormwater Town Hall Meetings held in 2013 a video was shown of a road being washed out and a pipe being washed away during a storm and he stated that the video was very close to what occurred in Fayette County. Commissioner Brown added that when the video was shown many people accused the county of using scare tactics.

Mr. Rapson stated that each road that Mr. Mallon identified and spoke about was part of the original project list for Stormwater Special Purpose Local Option Sales Tax (SPLOST), and that some of the projects had been re-categorized based on the flood event. He further explained that Fayette County had been two to three days short of completing the dredging of Lake Peachtree when the flooding began on Christmas Eve, so now the dredging would be completed likely in February. He commended Mr. Mallon and his crew who worked and made assessments for stormwater while others were celebrating Christmas. He noted that the work impacted staff's families but that he and the residents of Fayette County appreciated their work.

Mr. Mallon reported there are about 3,700 pipes in Fayette County but the ones staff is most concerned about are the 1,900 pipes beneath the roads. He stated that of the 1,900 pipes beneath the roads about 322 pipes are considered to be in poor or failing condition and he said the number is growing. He said the 322 poor and failing pipes were included in the Stormwater SPLOST list. He explained anything placed in a Category II or Category III list had been identified by staff to be addressed and those projects listed as Category I were the most urgent projects since they presented a true need. He mentioned that his PowerPoint showed nine of the fifteen Category I projects that were heavily impacted by the recent flooding.

Mr. Mallon estimated the nine stormwater projects would cost an aggregate of \$997,529.00 for Fiscal Year 2016. He further estimated that the total projected cost, based on a rough estimate, was \$3.6 million stretched across Fiscal Years 2016, 2017 and 2018. He explained that the Public Works Department, Road Department, Finance Department, and Stormwater Utility reviewed all of the existing Capital Improvement Projects (CIP) and other line items and recommended relocating a little over \$304,000.00 to Stormwater Utility. He stated that an additional \$693,054.00 was needed from Capital Projects- General Contingency (Fund 375) in order to get the \$997,529.00. Mr. Mallon replied that all the money that is being provided to the Stormwater Utility, unless it is a reallocation from the utility itself, would be a loan that would be tracked by Finance and that would eventually be paid back to the county's general fund.

Commissioner Ognio asked what was being eliminated from the CIP to get \$304,000.00. Mr. Rapson stated staff went through each particular fund by budget line item in order to locate available funds. He reminded the Board that after the Stormwater SPLOST failed the Board authorized a \$2 million loan to the Stormwater Fund to take care of Category I projects. He explained that \$500,000.00 of the loan has already been paid back meaning there is a \$1.5 million loan that the Stormwater Utility still owes to the General Fund. He explained this request would redirect \$179,000.00 of stormwater money and would increase the loan by an additional \$818,000.00 in order to get through Fiscal Year 2016. He pointed out that in Fiscal Year 2017, based on proceeding with the three big projects, an additional \$2 million would be required for stormwater. He added that the bridge project for Old Senoia Road would cost approximately \$619,000.00 in Fiscal Year 2018. Mr. Rapson emphasized that staff had identified a \$3.6 million cost for the projects with funding stretched over three fiscal years, and he said the Board should not be surprised when the funding requests are made of the Board.

Mr. Rapson reported that there are two other "motions moving in the same effort." The first, he said, was for a federal designation of an emergency which, if so designated, would allow Fayette County to receive up to 75% of the identified money back. He explained that if the state's total accumulated emergency does not exceed \$14 million then there would not be a federal designated emergency. He mentioned that, so far, the state had identified \$10 million in damages; however, several counties in south Georgia were still dealing with the effects of the flooding meaning the cost of emergency damages could increase. He said Fayette County may or may not get federal funding but it would not be for a lack of effort. Second, he mentioned that Fayette County had met with the Georgia Department of Transportation (GDOT) and, based on that meeting, there was another option to use LMIG monies. He pointed out that the Board would consider using the LMIG monies under New Business #30. Mr. Rapson explained that if federal money is awarded then staff would return to the Board to realign funding. He emphasized that this request ultimately concerned public safety issues and that Fayette County would have to provide at least some funding for the repairs. He explained that the trigger date for a federal disaster declaration is thirty days after the event ended but, since the federal government has not set an official date for the end of the event, it could be another thirty or forty days before the county finds out whether or not the flooding qualifies as a federal disaster.

Commissioner Barlow stated he happened to be in the office when he saw Emergency Management, Finance, and Road Department personnel filtering in. He said he heard the briefing from the Georgia Emergency Management Agency (GEMA) and he had asked if the Stormwater SPLOST had been successful where the county would be. Mr. Rapson replied that had the Stormwater SPLOST been successful the county would have had about \$5 million in the bank and this would not be an issue. Commissioner Barlow recalled that a road collapsed just before a Stormwater Town Hall meeting in 2013 but a citizen who attended the meeting stated he did not care about the road since he did not drive on the road. Commissioner Barlow said that was the mentality the county was dealing with and that he had a tender heart for all the people who worked to get information out that would prevent these types of issues. He said the county is working diligently to pay for the roads that have collapsed and are damaged.

Mr. Rapson stated that from a staff perspective it is not an easy request to look at the budget to make these repairs. He said there is a much easier answer to the question of how to pay for the repairs since the Board allocates \$2 million every year for emergency-type events. He explained that staff could have utilized the money from fund balance, but, instead, staff worked

together to locate funding. He thought the recommendation was the best solution available and that the county was doing the right things to get from "Point A" to "Point B." Chairman Oddo asked if there were any other contingency funds available. Mr. Rapson replied that the only other available funds in the general fund were for Recreation in the amount of \$1.3 million, and he said Fayette County is in a very healthy financial position where it can address these types of issues since it is conservative enough to use the money without a negative impact. He mentioned that the county's financial stability was exactly why the county has an Aaa Bond Rating since these types of events are not financially crippling.

Commissioner Barlow moved to approve staff's recommendation to allocate and loan \$997,529.00 to the Stormwater Utility in Fiscal Year 2016. Commissioners Ognio and Rousseau seconded the motion.

Commissioner Barlow amended his motion to utilize the Existing Stormwater Budget in the amount of \$179,306.00, the General Fund (Fund 100-Road Department) in the amount of \$47,246.00, the Capital Improvement Program (375- Road Department) in the amount of \$77,923.00, and the Capital Project General Contingency Fund (Fund 375) in the amount of \$693,054.00 for a total source of funds being \$997,529.00. Commissioner Ognio seconded the amended motion.

The motion to approve staff's recommendation to allocate and loan \$997,529.00 to the Stormwater Utility in Fiscal Year 2016 and to utilize the Existing Stormwater Budget in the amount of \$179,306.00, the General Fund (Fund 100-Road Department) in the amount of \$47,246.00, the Capital Improvement Program (375- Road Department) in the amount of \$77,923.00, and the Capital Project General Contingency Fund (Fund 375) in the amount of \$693,054.00 for a total source of funds being \$997,529.00 passed 5-0. A copy of the request, identified as "Attachment 17," follows these minutes and is made an official part hereof.

27. Consideration of staff's request for Board ratification of County Agreements with Brent Scarbrough & Company, Inc. for emergency road repairs made on Canterbury Lane (Project No. 6509A) and Westbridge Circle (Project No. 6509B).

Public Works Director Phil Mallon stated that emergency action had been required for Canterbury Lane and Westbridge Circle and in each case staff requested and received a not-to-exceed cost from Brent Scarbrough & Company before authorizing the work to be performed. He said the approvals were being brought to the Board after the fact for ratification and that the funding would come from the funds just approved in New Business #27.

County Administrator Steve Rapson stated that the actual budget for Canterbury Lane was \$97,500.00 and the actual not-to-exceed request for emergency purchase was \$90,000.00. He stated that the additional \$7,500.00 is to reimburse the general fund for the crews who did the work from a general fund perspective along with material and labor. He added that the actual budget for Westbridge Circle the emergency purchase was \$99,000.00 and only \$3,500.00 reimbursed the general fund's staff and effort. He concluded that staff would calculate the actual numbers in the coming days and it may be less but not more than those figures.

Commissioner Rousseau moved to accept staff's request for Board ratification of County Agreements with Brent Scarbrough & Company, Inc. for emergency road repairs made on Canterbury Lane (Project No. 6509A) and Westbridge Circle (Project No. 6509B). Commissioner Barlow seconded the motion.

Commissioner Rousseau applauded staff for their work and effort in addressing the emergencies. He said staff had responded to issues on a county-wide basis throughout the holiday season and for staff to do an assessment throughout the entire county was commendable. He said as he looked at the Policies and Procedures he found that the definitions of what constitute an emergency and who can call for an emergency is vague. He asked for the Board to strengthen the wording so that staff is not inadvertently placed into harm's way. Chairman Oddo suggested that Commissioner Rousseau get with County Attorney Davenport or with Mr. Rapson to drill down the definitions and wording.

The motion to accept staff's request for Board ratification of County Agreements with Brent Scarbrough & Company, Inc. for emergency road repairs made on Canterbury Lane (Project No. 6509A) and Westbridge Circle (Project No. 6509B) passed 5-0. A copy of the request, identified as "Attachment 18," follows these minutes and is made an official part hereof.

28. Consideration of staff's recommendation to approve a scope of services change order reduction of \$49,800.00 in which the City of Peachtree City will receive \$25,000.00 towards its Drake Field Enhancement Project.

County Administrator Rapson stated there would be a net reduction of the contract from \$49,800.00 and that staff recommended that Peachtree City receive \$25,000.00. He stated this agreement would relinquish the county's obligations to bring Drake Field back to its original condition. He added that the Peachtree City Council agreed to the request on January 7, 2016 and that many of the council members were in the audience for this vote.

Commissioner Brown moved to approve a scope of services change order reduction of \$49,800.00 in which the Peachtree City government will receive \$25,000.00 towards its Drake Field Enhancement Project. Commissioner Ognio seconded the motion. The motion passed 5-0. A copy of the request, identified as "Attachment 19," follows these minutes and is made an official part hereof.

29. Purchasing Card Agreement

County Administrator Steve Rapson reminded the Board that the state had recently passed a Purchasing Card Policy for elected officials that includes Constitutional Officers. He explained that the Constitutional Officers had problems with the appearance of waiving some of their authority in the policy, and he reported that staff had recommended language that the Association of County Commissioners Georgia had reviewed as well as other organizations and counties. He said staff is comfortable that it meets the state's requirement and the Constitutional Officers have agreed to sign it. Mr. Rapson concluded that until the User Agreement is approved and signed the Purchasing Cards for the Constitutional Officers would remain deactivated.

Commissioner Brown moved to pass the Purchasing Card Agreement as presented on the dais. Commissioner Barlow seconded the motion. Some discussion followed. The motion passed 5-0. A copy of the Purchasing Card Agreement, identified as "Attachment 20," follows these minutes and is made an official part hereof.

30. Homeland Security – Georgia Department of Transportation LMIG Emergency Funding

County Administrator Steve Rapson stated this request is similar to what the Board approved with Consent Agenda Item #13 but the difference is instead of asking for the county's portion of LMIG funds this request is for additional funds that may be available from LMIG for emergencies as deemed by the State of Georgia. He explained that when the Georgia Department of Transportation (GDOT) came to the county and saw the particular issues they suggested that the county complete the application and submit some of the damage incurred in Fayette County. He said the application requires the Chairman's signature and staff was seeking that authority.

Commissioner Brown moved to approve the application from the Georgia Department of Transportation LMIG Emergency money as presented on the dais. Commissioner Barlow seconded the motion. The motion passed 5-0. A copy of the Homeland Security- Georgia Department of Transportation LMIG Emergency Funding document as presented to the Board at the dais, identified as "Attachment 21," follows these minutes and is made an official part hereof.

PUBLIC COMMENT:

Roy Bishop: Mr. Bishop asked the Board to take a second look at mediation between himself and Fayette County that occurred on December 18, 2015. He stated that he thought the mediation did not address landscaping for stormwater drainage after the new road and bridge was built. He said Public Works Director Phil Mallon looked at the property before mediation and emailed him a plan and later his staff worked on a plan to fix the problem. He said he thought the problem was still in play but later was told after mediation that the issue was not in play. He said he needed the Board to fix the problem that he did not have before construction on Westbridge Road and that a staff member had informed him that the average price of the bids to fix the problem were about \$21,000.00. He asked the Board to approve half the bid amounts in order to repair the stormwater drainage. Mr. Bishop also asked for letter describing what is required of him since the county has a permanent easement and a letter for relief of the 100-foot setback since there may be other people on the Board in years to come.

Bob Ross: Mr. Ross spoke for sixteen minutes. He began his comments by wishing everyone a Happy New Year and extending his congratulations to the Chairman and Vice Chairman. He stated that he and Commissioner Barlow attended a meeting between three state senators and a group of pastors. He said the meeting was interesting since the pastors encouraged the senators to become aware of a bill and support it based on principle. Mr. Ross then asked the Board to continue to stand on principle against the NAACP lawsuit. He recapped the issues concerning the NAACP lawsuit, spoke about previous Board decisions concerning the lawsuit, and expressed his concern with the consequences that could ensue from the lawsuit. Mr. Ross continued to ask the Board to stand for at-large voting.

ADMINISTRATOR'S REPORTS:

Selection Committee for the Library Board: County Administrator Steve Rapson stated there is a vacancy due to a resignation on the Library Board and that a Selection Committee needs to be appointed to fill the vacancy. The Board appointed Commissioners Barlow and Rousseau to serve on the Selection Committee.

Appointment of the 2016 Legislative Coordinator: County Administrator Steve Rapson stated that the Board needed to appoint a Legislative Coordinator and it is up to the Board's pleasure who it appoints to the position. He added that in recent years the Board had appointed him to be the Legislative Coordinator. The Board re-appointed Mr. Rapson to serve as the Legislative Coordinator for 2016.

January 28, 2016 Board of Commissioners Meeting to be held at 3:00 p.m.: County Administrator Steve Rapson reminded the Board that it modified the 2016 Board of Commissioners meeting calendar with Consent Agenda #11 and, based on that vote, he reminded the Board and audience that the January 28, 2016 Board of Commissioners meeting would actually be held at 3:00 p.m.

ATTORNEY'S REPORTS:

Notification of Executive Session: County Attorney Dennis Davenport notified the Board that he had three items of Pending Litigation, one item of Real Estate Acquisition, and review of the December 10, 2015 Executive Session Minutes for consideration in Executive Session.

COMMISSIONERS' REPORTS:

Commissioner Barlow: Commissioner Barlow thanked everyone for coming to the meeting and he stated that the year was starting off well. He thanked staff for their work and tremendous effort over the holidays. He thanked Mr. Brent Scarbrough and his crew for their quick response during the emergency. He suggested a formal letter of thanks needed to be sent to Mr. Scarbrough. He added that the citizens who allowed the county to tread across their property were precious citizens and he added that the county would restore their property.

Commissioner Brown: Commissioner Brown wished everyone a Happy New Year and a successful 2016. He asked that the Board concentrate and make a goal in 2016 to work on its communication with all Board members and to act with the consent of the Board on matters of legal and contractual nature.

Commissioner Ognio: Commissioner Ognio thanked the Board for supporting him in the position of Vice-Chairman. He wished a Happy New Year to all and mentioned his wife recently celebrated her birthday and that they would celebrate their anniversary soon. Commissioner Ognio expressed gratitude to Mr. Rapson for his efforts on December 24, 2015 since his efforts may have been overshadowed by others who rightly needed to be recognized. He said Mr. Rapson took time from his Christmas Eve to go out and coordinate efforts necessitated by the flooding. He apologized for the last minute additions to the Agenda since they were necessary, but he hoped adding items to the Agenda at the last minute would not become a practice. He wished all a Happy and successful New Year.

Commissioner Rousseau: Commissioner Rousseau thanked the Board members for their service, candor, and openness to alternative viewpoints. He thanked the citizens who continue to encourage the Board and staff with their work. He said he was still getting his feet wet and he thanked everyone for helping him to get up to speed. He said he has been meeting with several schools and Homeowners Associations and he would be bringing items to the Board throughout the course of the year for consideration.

Chairman Oddo: Chairman Oddo said it was a pleasure to serve as Chairman for the year 2015. He said it was a wonderful opportunity to work with staff and fellow Commissioners and he appreciated the opportunity to do so again. He congratulated Commissioner Ognio for being elected as Vice Chairman. He pointed out that each person on the Board has a relationship that ties them together and sees them to the end although, at times, the road can be awfully rough. He wished everyone a Happy New Year and much success. He closed saying that everyone in the room are friends and neighbors and sometimes even when issues come up tends to cause some to back into a corner and stake out a position, once the issue is resolved everyone needs to come back together.

EXECUTIVE SESSION:

Pending Litigation, Real Estate Acquisition, and Review of the December 10, 2015 Executive Session Minutes: Commissioner Brown moved to adjourn into Executive Session. Commissioner Ognio seconded the motion. The motion passed 5-0.

The Board recessed into Executive Session at 9:47 p.m. and returned to Official Session at 11:07 p.m.

Return to Executive Session and Authorization to Sign the Executive Session Affidavit: Commissioner Ognio moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Commissioner Rousseau seconded the motion. The motion passed 5-0. A copy of the Executive Session Affidavit, identified as "Attachment 22," follows these minutes and is made an official part hereof.

December 10, 2015 Executive Session Minutes: Commissioner Ognio moved to approve the December 10, 2015 Executive Session Minutes. Commissioner Barlow seconded the motion. The motion passed 5-0.

Roy Bishop Settlement: County Attorney Dennis Davenport reminded the Board that Mr. Roy Bishop spoke during Public Comment about mediation involved with the county. He said he had some terms and conditions from the mediation heard on December 18, 2015. He said when Mr. Bishop's property was condemned on December 5, 2012, the county paid in \$26,400.00, which Mr. Bishop has. He said in the mediation both the county and Mr. Bishop agreed that the total amount that would be paid for resolving all issues would be \$72,000.00. He explained that deducting the \$26,400.00 already paid to Mr. Bishop, the remaining amount is \$45,600.00. Mr. Davenport stated that the money would pay for damages that he has received in addition to fee-simple title to 0.3637 acres, a permanent slope easement in the amount of 0.1266 acres, and a temporary construction easement in the amount of 0.0077 acres. He said the entire property where the house is located is 5.36 acres. He explained that by the slope being created in the front yard a small trough concentrated close over his drain field and Environmental Health reports that the situation cannot remain. Mr. Davenport explained that Mr. Bishop's drain field is partially in the county's easement and that is not allowed either. He explained that the septic drain field which the county interfered with and the driveway were issues that were discussed at length at the mediation and as part of the settlement Mr. Bishop will be required to install a more expensive drip system and the county will waive the permitting fee. Mr. Davenport stated that if the terms and conditions of the settlement meet the Board's approval then the county could resolve this condemnation with Mr. Bishop.

Commissioner Rousseau moved to approve the settlement agreement that was negotiated on December 18, 2015 for the amount as outlined by the County Attorney. Commissioner Barlow seconded the motion.

Commissioner Brown offered apologies to Mr. Bishop since he and many other property owners were not treated well when the West Fayetteville Bypass was being created. He said the road was built on people's property before the property was condemned without caring about what the people had to say. He stated that many people were abused along the West Fayetteville Bypass, apologized to Mr. Bishop, and hoped the settlement would help resolve the problems. Commissioner Rousseau stated he visited Mr. Bishop's residence and saw the water and flow that goes through his property. He joined Commissioner Brown in offering apologies for the way this matter started and he hoped that Mr. Bishop would be able to reach a successful conclusion.

The motion to approve the settlement agreement that was negotiated on December 18, 2015 for the amount as outlined by the County Attorney passed 5-0.

Final Settlement Agreement between the NAACP and the Fayette County Board of Commissioners: County Attorney Dennis Davenport stated there was a proposed Final Settlement Agreement in place for the Board to ratify should it meet with the Board's pleasure. He then read pages 3-6 of the proposed Final Settlement Agreement into the record as follows:

1.

CONSIDERATION

County Defendants agree to (a) submit to the Fayette County delegation to the Georgia General Assembly for introduction as local legislation in the 2016 General Assembly the proposed Fayette County Commission districting plan (attached at Appendix 1), which has (1) four single-member districts in which the member shall reside in his or her district for the required period and be elected only by the voters of that district, and (2) one at-large district elected by the voters of the entire County and for which there is no residency requirement other than required period of residency in the County, and (b) following enactment of such districting plan by the State of Georgia, to pay the sum of one hundred twenty-five thousand dollars and no cents (\$125,000) to resolve all claims for attorney's fees, expenses, and costs against County Defendants incurred in this litigation. In exchange, following the enactment of such plan, Plaintiffs agree to deliver executed individual releases attached hereto at Appendix 2 and dismiss their claims against County Defendants with prejudice, all in the manner provided below.

2.

NO ADMISSION OF WRONGDOING

This Agreement has been entered into by County Defendants and Plaintiffs solely to avoid the further burden of this litigation. The parties to this Agreement agree and acknowledge that this Agreement is the result of a compromise and is not and shall never at any time or for any purpose be construed as an admission of liability or wrongdoing, by County Defendants or any of the Releasees, as to the claims that were brought or could have been brought by Plaintiffs in this litigation. County Defendants and other Releasees expressly deny any wrongdoing and specifically disclaim any liability to Plaintiffs or to any other person or entity with respect to the claims in this litigation. County Defendants and Plaintiffs agree that this Agreement is not evidence and shall not raise any inference that County Defendants or any other Releasees engaged in any unlawful or wrongful conduct.

3.

NO INTENTIONAL DISCRIMINATION

Consistent with the Court's finding in its Order on Summary Judgment in this litigation, Plaintiffs acknowledge that there was no intentional racial discrimination in the County's use of and defense of its at-large districting system.

4.

ATTORNEYS' FEES, EXPENSES, AND COSTS

Assuming that the State of Georgia enacts the districting plan for the Fayette County Commission attached as Appendix 1, County Defendants will pay the sum of one hundred twenty five thousand dollars and no cents (\$125,000) to Plaintiffs' attorneys to resolve completely all claims against County Defendants for attorneys' fees, expenses, and costs incurred in this litigation. Payment shall be delivered to Plaintiffs' attorneys by Fayette County within thirty (30) days of the enactment of the districting plan but shall be held in trust by the Plaintiffs' attorneys and thereafter be released once (a) Plaintiffs' executed releases referenced in Paragraph 5 below have been delivered to counsel for County Defendants and (b) the claims against County Defendants in this litigation have been dismissed with prejudice, as provided in Paragraph 6 below.

5.

RELEASES

Assuming that the State of Georgia enacts the districting plan for the Fayette County Commission attached as Appendix 1, simultaneously upon payment by County Defendants as set forth in Paragraph 4, each Plaintiff, through their counsel, will deliver an executed release of County Defendants, attached as Appendix 2, irrevocably and unconditionally releasing all present and former County Defendants, their present and former agents, employees, attorneys, officers, elected officials, departments, insurers, successors, and assigns (collectively, the "Releasees") from any and all claims, whether known or unknown, relating to the claims in this litigation that were brought or could have been brought by Plaintiffs against County Defendants through the date of the release. Each Plaintiff's original executed release shall be delivered to counsel for County Defendants, Anne W. Lewis but shall be held in trust and thereafter be released once the claims against County Defendants have been dismissed with prejudice as set forth in Paragraph 6 of this Final Settlement Agreement.

6.

DISMISSAL WITH PREJUDICE

Upon the enactment of the attached redistricting plan for the Fayette County Board of Commissioners and payment by the Board of Commissioners of the amount in Paragraph 4 above, Plaintiffs shall immediately prepare a consent motion to dismiss with prejudice their claims against County Defendants in the above-styled case, and, upon County Defendants' consent, file that motion for the Court's entry.

Commissioner Ognio moved to reject the settlement. Commissioner Brown seconded the motion.

Chairman Oddo clarified that a favorable vote of the Board to approve the motion would result in rejection of the settlement.

Commissioner Ognio read the following statement into the Record:

I am sticking by my campaign promise.

I cannot help but wonder how we as elected officials and three of us here were elected at-large can be voting to take away three-fifths of the voting rights of our citizens that voted for us. I think that is a little arrogant on our part. The right thing to do is to protect the rights of the citizens. That's what we are here for, to represent the citizens. The right of the citizens to vote for the entire executive branch of the Board of Commissioners is a right worth protecting.

Yes, there's a cost. Not sure how you put a price on the citizens' right to vote for every commissioner. I personally think that would be a large number. So the cost was going up as the process continued, but should we give up after spending all that money? That's like throwing the money away. We were about to have our day in court. There are no guaranties on what the result would be but at least we would have our day in court.

There is wording in this settlement that says "Consistent with the Court's finding in its Order on Summary Judgment in the litigation, Plaintiffs acknowledge that there was no intentional racial discrimination in the county's use of and defense of its at-large districting ." I strongly object to that wording. It should say no racial discrimination. The use of the word "intentional" in there should not be in there. Judge Batten did not find any racial discrimination in his first summary judgment. So I do not like the fact that that we're using the word "intentional." How can this board vote for the settlement that says there was racial discrimination in the county, intentional or not?

The citizens need to ask, "Are my representatives doing what I elected them to do?" If not, the election is just around the corner. It is ironic that if it passes the ones that want me to vote me out of office would not be able to vote for me.

The motion to deny the settlement failed 2-3 with Chairman Oddo, Commissioner Barlow, and Commissioner Rousseau voting in opposition.

Commissioner Rousseau moved to accept the terms as outlined in the agreement by counsel's recommendation and tentative agreement pending the next steps that would be needed at the state level as also outlined by counsel. Commissioner Barlow seconded the motion.

Commissioner Barlow read the following statement into the Record:

I want to take a few minutes to share why I voted to settle the long protracted lawsuit. When I ran for office in 2012, I ran on the platform of "Faith, Family and Fayette County." I unashamedly declared Jesus Christ as my Lord and Savior. I also ran as a fiscal conservative and made the commitment to avoid wasteful spending. I took an oath to serve the Fayette Community to the best of my ability.

Judge Batten ordered mediation so the Plaintiffs and Defendants could talk with each other in the hopes of finding a workable solution to settle the lawsuit. The Plaintiffs and Defendants are all Fayette citizens and the Judge believed in our ability to figure things out. To go against the judge was not a gamble I was willing to make with the citizens' money.

I always seek to do what is in the best interest of the county. Over the past three years, in dealing with this lawsuit, I have sat through many executive sessions and most recently the entire mediation process. There has been much prayer on my part. I really believed it was in the best interest of our county to come to a settlement. As Plaintiffs and Defendants we came to a resolution where both sides had to compromise what they wanted but in the end we were in agreement.

Working together to peacefully solve a problem is good for the health and wellbeing of Fayette County. If we would have continued to pursue this lawsuit and lost, our taxpayers loose. Some people have said fight no matter what it costs to protect our character. Many of my constituents didn't know what the lawsuit was all about, but when they heard how much it was costing with no guarantee of success, they were not in favor of continuing the lawsuit.

When we are able to work out our differences as citizens of Fayette County it translates into a big win for Fayette County. It says to our citizens that we can work together. It enables us to go forward and get busy with the important work of this county. When I look at the Fayette Visioning goals for our community we have the opportunity to be a world class community and truly an enviable place to live, work and play.

I am pleased that this lawsuit has been settled. Fayette County continues to be a wonderful county to live and I look forward to my continued service to its citizens and honor my pledge of Faith, Family and Fayette County and always doing what I believe to be in the best interest of Fayette County. God Bless America and God Bless Fayette County!

Commissioner Brown read the following statement into the Record:

As one of only two people I think who were in this from the very beginning, there is one on the Board of Education and there is myself, it has been a long, arduous process. And I think at this point I don't think anybody on either side wishes they were in this situation. Boy, it has just turned out miserable. But we can agree to disagree and that's what Commissioner Rousseau and I always say, we can agree to agree on things we agree on and we can agree to disagree.

I am the only commissioner who has been elected at-large and by district. I've been elected both ways.

I went to conservative groups and got their support for NAACP President, AME Pastor, Democrat Ed Johnson against the Republican incumbent in Fayetteville City Council race for his original election.

I am a former Fayette County NAACP member.

The lawsuit, initiated by the NAACP, was predicated on a lie to begin with, that no African American had or could be elected to countywide office. Magistrate Judge Charles Floyd, my neighbor, served two terms and would have served more had he not died.

White citizens, like myself, liked Judge Floyd and white citizens voted for Judge Floyd who never had a white challenger for his judicial position.

Now the NAACP is going to sign a binding settlement agreement that claims “...*there was no intentional racial discrimination in the County’s use of and defense of its at-large districting system...*” (Section 3), dispelling the very foundation of the Plaintiff’s case.

One might believe from the statement in section three there existed some form of *unintentional* racial discrimination, which is incorrect. Likewise, Judge Timothy C. Batten, Sr., an Article III federal judge for the United States District Court for the Northern District of Georgia, aptly stated in his initial summary ruling that, “*The Court agrees with the County Defendants that in contrast to many plaintiffs, [NAACP] Plaintiffs have not proffered evidence relating specifically to discrimination in Fayette County.*”

Allow me to go further, the evidence is incontrovertible in favor of the county which probably explains why the NAACP is willing to take the new district voting maps that do not even meet the minimum criteria of the Voting Rights Act as well as having to swallow a major portion of their own legal fees.

I voice great concern over Judge Batten’s actions during these legal proceedings. When attorneys express fear of moving forward in defense of the citizens in this county not because our case lacks merit, but because of what the judge will presumably do, the system has failed us. The mediation process was more like a sledgehammer than a thoughtful intervention. This only encourages disrespect for the rule of law.

With sincerity to Judge Batten, you owe attorney Wayne Kendall, former attorney for the Plaintiffs, an apology and a refund of his \$5,000 fine. The infamous Lindsey district maps were a direct and purposeful manipulation of the Federal Court. I was in executive session when the County Attorney introduced the scheme which I rebuffed and I dispatched correspondence to the Georgia Attorney General the following morning. I have testified to this under oath.

According to a very recent Pew Poll, only a miniscule 19% of Americans say they can trust the federal government always or most of the time, among the lowest levels in the past half-century. Among both Democrats and Republicans, large majorities say they can seldom, if ever, trust the federal government (89% of Republicans, 72% of Democrats).

No one should be wondering why anti-establishment candidates are popular at the federal level.

Congratulations go to Mayor Edward Johnson of Fayetteville, the first black mayor of the city, elected at-large in a city where only 33.9% of the population is black. This is Mayor Johnson’s second at-large election victory in a city where streets are named after Confederate heroes. According to Judge Batten’s previous ruling, these election results were deemed impossible based on what many of us believe to be faulty logic.

Congratulations to new Savannah Mayor Eddie DeLoach, a diehard conservative Republican who had previously served on the Chatham County Board of Commissioners. Congratulations also to new Councilmen Bill Durrence and Brian Foster, all older white males, who won elected office in a city that is 55% black. It appears what the judge found impossible is happening all over the state.

Many citizens both black and white have expressed their dismay over the NAACP filing this lawsuit. It has been a means of circumventing a strong Republican core and elevating Democrat Party politics. It’s been divisive and it has ended with admissions that there really was no racism.

As to why the Board of Commissioners pursued this lawsuit with a majority of citizens backing the effort, costing around 800,000 taxpayer dollars, only to drop it at the moment the trial was about to begin, I am in shock right along with you. Those specific commissioners will have to explain their rationale to the voters in this 2016 election.

The Plaintiffs could have had a similar set of settlement districts at the onset of this lawsuit in 2012. The hubris has resulted in a tremendous amount of wasted money and effort.

This is why I despise politics.

Commissioner Rousseau provided the following verbatim remarks:

I think this is the right time to end time this and for us to move forward. My comments aren't prepared but they are from my heart, not to imply the others were not. From *Plessy v. Ferguson* to *Brown v. The Board of Education*, to the passage of the Civil Rights Act, to the passage of the Voting Rights Act, all of these have been legislative issues that have been brought before Congress and the courts, the Supreme Court, of the United States. The Voting Rights Act in 1965 would not be in place and the NAACP and whomever else would not have used that as the basis for asking for equality, sitting at the table where decisions are being made in a community that has not seen fit in 194 years to include all the citizens in the electoral process that is called "at-large." I commend my colleagues for taking this step to seek resolution, to end this so we can move forward. I won't get into the banter of back and forth because of some of the arguments that I've heard I can reverse those such as "African American qualified conservative candidates have run for office." So have liberals, but the conservatives never crossed over to vote for them. And so it's a zero-sum game and we're going back and forth. The fact is that these court rulings would not have to be put in place if we didn't have issues that needed to be addressed. And I named them that word "seminal" moments in the history of America. *Plessy*, *Brown v.*, Civil Rights Act, Voting Rights Act. They were put there for a reason to balance what you hear at all the times of the playing fields of bad educational policy. Anyway, those are my statements. I appreciate coming to this point. I will pledge to do my part to continue to work with this community as a whole for us to be a good place to call home. And I thank you all for the time.

Chairman Oddo read the following statement into the Record:

I believe everybody sitting in the audience understands, regardless of how you feel about how we are voting, that the decision is not easy for any of us here. And that is because we all love this county.

This case, speaking personally and of my perception, and what I am hearing, my feelings are with at large voting. I would prefer to have it. I wish we could.

I don't think, now, that is, unfortunately, the case. I think the understanding of the present circumstances, and I'm trying to do the best for everybody. And so I look at the circumstances and I see the judge has already ruled against Fayette County twice.

And based on the injunction, he seems ready to rule against us again. I want to say us, I'm talking about everybody in the county. I'm not excluding anyone. Clearly, none of us, none of the four who were here, Commissioner Rousseau was not here at the time, none of us were happy with the decision. We appealed and the Appeals Court returned the case to the judge for procedural reasons.

If the case goes forward and the judge rules against us again, which seems likely, our option would be go back to the Appeals Court, but looking at that Court's last decision, my feeling was and is and remains that our chance of prevailing there is nil.

Following that, we could appeal to the Supreme Court where the first question is not whether or not we would prevail because we feel like our argument is strong, but the question is actually whether or not we'll even be heard. The odds of our case being taken are 1%.

None of this is promising to me. During this time, we'll have to conduct our elections on a district only basis.

All this will take time. Most likely it won't be settled for several years, taking us beyond the election in 2018.

Appeal would mean district only voting in 2016 and 2018 and possibly 2020, before we would even know whether or not districts are permanent.

In the meantime, the demographic trends have been and are pointing to districts by 2020 without a lawsuit.

Alternatively, we could try and soften the current map as much as possible. I had hoped, with Board approval, to begin speaking with the Plaintiffs. But, the judge ordered mediation which took precedence.

And so my problems with the present ruling of the judge were several:

- 1) Gerrymandered districts.
- 2) The loss of the right to vote for all commissioners, yes, I abhor that.
- 3) Suggestion of discrimination in Fayette County. I know it exists, it exists everywhere. It just has not been rampant here. I've been here 45 years.
- 4) Exposure to Plaintiffs' legal fees.

Before I could agree to any compromise, any agreement, these issues would have to be addressed for me.

The result after hours of mediation, and then weeks of follow-up with the Plaintiffs, is an agreement the Board is about to vote on.

The agreement eliminates Gerrymandering. Presently the District 5 map encompasses much of north Fayette, but it's connected by two umbilical cords, one to Tyrone, and one to Fayetteville. And it goes south of Fayetteville. And the result is three of the five districts severely distorted. District 1 wraps around Tyrone. My district, which includes Fayetteville, Fayetteville is gone, it's the heart of my district and the 5th district continues through the center of Fayetteville and down south Jeff Davis Drive. The revised map is much cleaner. Where subdivisions were divided before, the new map keeps them whole. The map is not perfect, but it's vastly superior to what we have now.

One at-large district will be preserved. I know that's not five, that's one. But it's vitally important to keep our tradition of at-large alive in some fashion. Without this agreement there would be nothing. And as memories fade and we become accustomed to district, the voters will forget what the at-large vote was like. We need to keep an at-large at least. So we have one at-large.

And I think it's important to note that the judge has no discretion to give us this. He cannot create an at-large district, it can only by an agreement with the Plaintiffs and the Defendants.

Acknowledgement of Non-Discrimination. Again not perfect, but better than what the original ruling left us with.

The Plaintiffs acknowledge that there was no intentional racial discrimination in the county's use of and defense of its at-large districting system. It's not perfect, but we're not racists and at least it's an acknowledgement.

And the final thing which is not the deciding factor for me, but on top of the other things it is critical that the fee is capped at only \$125,000. It's essentially nothing.

While fees are not the most important issue on matters such as this, it is important to note that through the hard work of our attorney. We preserved some of our rights AND our legal fees have been reduced dramatically. If the appeal continues, our legal obligation to the Plaintiffs could perhaps top two million dollars, and we will have no at-large district.

Instead we're paying a nominal amount, a bitter pill but a much less bitter pill to swallow.

When I consider where we are and the most likely outcomes we face in the various options that we have and the alternate courses we could take, I truly believe that the best course for the county is what we've come up with. And I will say a prayer that the people will try and understand and that we will begin to come together.

This is not the end tonight, this goes forward to Atlanta. Our delegation must push it in Atlanta and it must be approved and signed by the Governor. So this is just the first step. And I have to hope it's the right step. We will never know until time goes by.

Commissioner Barlow quoted former President Ronald Reagan who, in August 1965, was transitioning from the Democratic Party to the Republican Party: "I favor the Civil Rights Act of 1964 and it is to be defended even with the gun."

The motion to accept the terms as outlined in the agreement by counsel's recommendation and tentative agreement pending the next steps that would be needed at the state level as also outlined by counsel passed 3-2 with Commissioners Brown and Ognio voting in opposition.

Resolution 2016-04 Requesting the Fayette Delegation to the Georgia General Assembly Submit a Map to the General Assembly Amending the Districts for Members of the Board of Commissioners of Fayette County: County Attorney Dennis Davenport stated the approving settlement was a first step. He explained that for the map to be redrawn consistent with what was read in the settlement agreement, it has to be redrawn by the legislature. He said that, in order for the legislature to do that, the Board of Commissioners would have to request the legislature to take that action through an official resolution. He stated that a resolution had been prepared consistent with the Final Settlement Agreement. He explained that time is critical and if the resolution is adopted it then has to be advertised in the *Fayette Daily News*. He said the advertisement would run on Wednesday, January 20, 2016, and it would give the county up to January 25, 2016, to notify the General Assembly of the legislation. He added that qualifying for elections would begin on March 7, 2016. He emphasized that there is a very tight timeframe to work with and he asked the Board to consider the resolution to formally request the Georgia General Assembly to redraw the map.

Commissioner Rousseau moved to approve the resolution as outlined by Mr. Davenport. Chairman Oddo seconded the motion. The motion passed 3-2 with Commissioners Brown and Ognio voting in opposition. A copy of Resolution 2016-04, identified as "Attachment 23," follows these minutes and is made an official part hereof.

ADJOURNMENT:

Commissioner Brown moved to adjourn the January 14, 2016 Board of Commissioners meeting. Commissioner Ognio seconded the motion. The motion passed 5-0.

The January 14, 2016 Board of Commissioners meeting was adjourned at 11:48 p.m.

Floyd L. Jones, County Clerk

Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 28th day of January 2016. Referenced attachments are available upon request at the County Clerk's Office.

Floyd L. Jones, County Clerk