

IN THE SUPERIOR COURT OF BIBB COUNTY
STATE OF GEORGIA

LINDSAY D. HOLLIDAY,)
)
 PLAINTIFF,)
)
 V.) CIVIL ACTION FILE NO.
) 12-CV-58472
 GEORGIA DEPARTMENT OF)
 TRANSPORTATION and PROJECT)
 ENGINEER CLINTON FORD, P.E.)
)
 DEFENDANTS.)

AFFIDAVIT OF VAN ETHERIDGE

COMES NOW Van Etheridge, who after being duly sworn, appeared before the undersigned and deposes and states under oath as follows:

1.

My name is Van Etheridge. I am over the age of eighteen (18) and am competent to testify to the matters stated herein. The testimony contained herein is based upon my own personal knowledge and the documents attached hereto or referenced herein.

2.

I am currently employed as the Program Manager (P.M.) by Moreland Altobelli Associates, Inc. ("Moreland"). I have held this position for 18 years.

3.

Moreland is a full-service and engineering and program management firm that was hired by Bibb County to serve as the Road Program Manager for the Macon-Bibb County Road Improvement Program ("RIP").

4.

I acted as P.M. for the RIP. As such, I have been personally involved in GDOT Project STP-3213, Bibb County, P. I. Nos. 3511(30) & (35) (hereinafter referred to as the “Forest Hills Road Project” or “Project”) since its beginning.

History of the Forest Hills Road Project

5.

In 1983, George Israel, Mayor of Macon, asked the Georgia Department of Transportation (“GDOT”) for help with improving Forest Hill Road, which has remained unchanged for the last 30 years.

6.

Approximately ten years later, in November of 1994, the citizens of Macon and Bibb County passed a referendum to increase the local sales tax by one cent on the dollar for road improvements. Prior to the referendum in November of 1994, ten community public information meetings were held during the months of September and October. The meetings were held at ten different public schools and covered the projects that were in the referendum. The community had the opportunity to look at various maps, hear about the changes that would affect their neighborhood, and ask questions about each project. Engineers and planners from both the City and County governments and Moreland were present to answer any questions. Also, comment sheets were provided to submit questions in writing, and a tape recorder was available for verbal comments.

7.

Projects selected for the referendum came from the Macon-Bibb County Transportation Improvement Program (TIP), which is a local-level comprehensive transportation plan that

becomes incorporated into GDOT's State Transportation Improvement Plan ("STIP"). Many of the projects in the TIP had been proposed in the early 1980s. The sales tax increase, which went into effect April 1, 1995, generated approximately \$126 million dollars; an additional \$200 million dollars has been or will be contributed from state and federal government. The Forest Hill Road Project ("Project") was one of 64 projects that were in the referendum.

8.

With the passage of this referendum, the Macon-Bibb County Road Improvement Program ("RIP") was born, the purpose and goal of which is to improve safety on roadways, provide new sidewalks, improve traffic flow, and provide connectivity between routes.

9.

The Bibb County Board of Commissioners has the final authority for expenditures of the sales tax funds; therefore, it has the responsibility of implementing the Sales Tax Road Improvement projects.

10.

The RIP is governed by an Executive Committee, which makes policy and directs the program. The City of Macon's and Bibb County's interests are equally represented on the Executive Committee, which was composed of the following:

1. Chairman of Bibb County Board of Commissioners (Chairman)
2. Vice-Chairman of Bibb County Board of Commissioners
3. Mayor of City of Macon
4. President of Macon City Council
5. GDOT Board Member for Bibb County

11.

Two committees were formed to report to the Executive Committee and the County Commission. The first was the Technical Advisory Committee ("TAC"), which provided

technical, financial, legal, and minority involvement advice for the RIP and brought to the attention of the Executive Committee and the Board of Commissioners any and all matters related to the Sales Tax Program.

12.

The second committee was the Citizens Oversight Committee (“COC”), which was composed of 13 citizens. The function of the COC was to monitor and review the overall progress of the RIP to determine whether or not the program was proceeding in a manner consistent with the public commitments made to the citizens of the City and County. As the firm hired to assist Bibb County in the RIP, Moreland served as the Road Program Manager. Moreland reported to and was directed by the TAC and the Executive Committee.

13.

In the RIP package put together before the referendum, the Forest Hill Road improvements were listed as Project Numbers 8 and 9 and consisted of the following:

Project No. 8 — Forest Hill Road from Wimbish Road to Northside Drive
– Widen from 2 lanes to 3 lanes, urban section, curb and gutter, sidewalk on school side, storm water improvements, combine with Project No. 9

Project No. 9 — Forest Hill Road from Forsyth Road to Wimbish Road
– Widen from 2 lanes to 5 lanes, urban section, curb and gutter, sidewalks, storm water improvements, combine with Project No. 8

14.

These two sections of Forest Hill Road are a joint venture with RIP, GDOT and FHWA. RIP is paying for the design of the projects and utility relocation costs; and GDOT and FHWA are paying for right-of-way property costs and construction costs.

15.

GDOT has oversight, review, and approval authority for all aspects of a project that has state or federal funding. GDOT works with FHWA to obtain all needed federal approvals. The project activities have to conform to GDOT's established guidelines, policies, and procedures.

16.

Specifically, the design process must conform to the Plan Development Process ("PDP"), which has been developed by GDOT for all GDOT and FHWA projects.

17.

One purpose of the PDP is to ensure the proper level of public participation is maintained and that there is public disclosure of environmental impacts before project decisions are made.

18.

GDOT's reviews and approvals include, but are not limited to, the following activities:

- Project Identification and Funding
- Project Framework Agreement
- Project Schedule
- Project Concept Report
- Traffic Volume Study
- Lighting Agreement and Photometrics
- Maintenance Agreement
- Environmental Studies and Reevaluations (including archaeological, historical, ecological, air, noise, underground storage tanks, and hazardous waste)
- Public Meetings
- Project Survey and Mapping
- Soil Investigation Report
- Pavement Evaluation and Proposed Pavement Design
- Preliminary Design
- Design Variance/Exception
- Culvert Design, Foundation Investigation, and Hydraulic Study
- Utility Relocation
- Landscape Design

- Traffic Signal Design
- Erosion Control
- Right-of-Way Design
- Right-of-Way Acquisition
- Location and Design Report
- Final Design
- Special Provisions
- Cost Estimate
- Construction Authorization

19.

During the PDP, environmental resources are identified early and given consideration throughout project development. Because this Project involves federal funds, the process outlined in the National Environmental Policy Act (NEPA) also had to be followed. There are three levels of environmental documentation: Categorical Exclusion (CE), Environmental Assessment (EA), Finding of No Significant Impact (FONSI) and Environmental Impact Statement (EIS)/Record of Decision (ROD). The level of study depends upon the impacts to the environment and must have the concurrence of the FHWA. Here, an Environmental Assessment was performed and a Finding of No Significant Impact (FONSI) was issued.

20.

NEPA also requires compliance with a variety of environmental laws, regulations and executive orders. Environmental laws require that every effort be made to avoid and/or minimize harm to certain environmental resources such as historic resources, publicly owned parks, recreation areas, wildlife and waterfowl refuges, waters of the United States (wetlands, streams and open waters), vegetative buffers on streams and their waters, cemeteries, and threatened/endangered species and their habitat. The FHWA has full oversight for all projects and has approval authority of the environmental documents for all federally funded projects. The PDP has been fully and completely followed for the Project.

The Project's Plans

21.

Planning for the Forest Hill Road projects began in 1995. The TAC along with Moreland, developed a Concept Report. This consists of a footprint of the improvements in the neighborhood; it addresses the lane widths, curb and gutter, drainage, sidewalks, re-alignments, turn-lanes, signalization, right-of-way, utility relocations, traffic counts, accidents, project description, estimated cost, and Need and Purpose Statement.

22.

During this concept development period, for Project No. 9 in the Referendum, Forest Hill Road from Forsyth Road to Wimbish Road, the RIP proposed a four-lane section with a 20-foot, raised, landscaped median instead of the five-lane section. It was thought that the landscaped median would give the roadway a boulevard look instead of a wide, asphalt concrete look.

23.

Project No. 8, Forest Hill Road from Wimbish Road to Northside Drive, consisted of two alternatives:

1. a three-lane urban section; or
2. a four-lane section with a 20-foot, raised, landscaped median.

Both RIP and the citizen input favored the three-lane section.

24.

Once the Concept Report was completed, it was presented to and approved by the following:

1. Technical Advisory Committee — July 24, 1997
2. Executive Committee — November 21, 1997
3. Georgia Department of Transportation
— December 15, 1998 (Project No. 8)

— April 20, 1998 (Project No. 9)

25.

The basic concept approved by all parties consisted of four lanes with a raised, landscaped median from Forsyth Road to Wimbish Road and three lanes from Wimbish Road to Northside Drive. Preliminary plans were developed around this concept, and the Environmental Assessment was approved by GDOT and FHWA on March 1, 2001.

26.

The official public hearing for Forest Hill Road was held on June 11, 2001 at Springdale Elementary School with 315 citizens attending. A total of 212 comments were received at the meeting with 153 stating they did not support the project. Comments were summarized as follows:

1. The proposed project will increase traffic, noise, and pollution in the area, along with cut-through traffic in the neighborhood.
2. The project should be limited to turn-lanes at various intersections and sidewalks.
3. The project does not need sidewalks.
4. The project should be limited to three lanes.
5. The widening of the road will encourage speeders.
6. Property values will decrease.

The footprint of the design shown at the public hearing in June 2001 is the same as it is today except for certain modifications requested by the community.

27.

In response to comments to the project, GDOT arranged a stakeholders meeting at the Holiday Inn on Riverside Drive on May 30, 2002. As a result of the meeting, the following modifications were made to the project plans as requested by the community:

1. Relocate overhead utilities to underground on the four-lane section (Cost: \$2.0 million in local funds).

2. Landscape the median and shoulders of the roadway (Estimated cost: \$550,000).
3. Provide lighting along the projects (Estimated cost: \$2.4 million).
4. Include sidewalks on both sides of the roadway on both projects (Estimated cost: \$516,000).
5. Provide a flat area at the driveways' entrances to roadway.
6. Cut lane widths to 11 feet on the four-lane section and to 12 feet on the three-lane section.
7. Redesign the entrance to The Prado and Overlook Drive to a right-in, right-out entrance.
8. Review the intersection of Northminster Drive at Wimbish Road to determine if it can be moved closer to Forest Hill Road.
9. Maintain the dual left-turn lanes from Wimbish Road to Forest Hill Road southbound.

28.

All of these recommendations have been incorporated into the plans, except the overhead utilities on the four-lane section could not be placed underground due to the cost involved. To obtain further stakeholder input on the development of the landscaping and lighting plans, stakeholder meetings were held on:

- April 14, 2005, at North Macon Park, to initiate landscaping and lighting plans
- December 12, 2005, at St. Francis Church on Forest Hill Road, to review proposed landscaping and lighting plans.

Opposition to the Project

29.

Among the groups of citizens opposing the Project have been certain property owners along Forest Hill Road as well as CAUTION Macon.

30.

RIP has provided numerous opportunities for input from citizens throughout the life of the program, approximately 17 years now. The project has had neighborhood meetings, along with an almost continuous opportunity for public input at the TAC meetings, which were held every other week for years. The Executive Committee met monthly and then quarterly for years;

and the Bibb County Commission meets twice per month. The opposition to these projects has taken advantage of these opportunities to express their concerns, and RIP has implemented numerous suggestions that were appropriate for the design criteria of the project.

31.

At the October 16, 2007 meeting of the Bibb County Commission, it was decided to send the controversial plan to widen Forest Hill Road to mediation. This action came after several weeks of pressure from residents and activists who, besides lobbying local officials in private, demonstrated against the Project at the Courthouse. Below is the motion that was approved October 16, 2007, regarding Forest Hill Road:

The Committee of the Whole voted to pursue resolution of the Forest Hill Road Project by engaging in mediation with representatives of Bibb County, persons who physically reside on Forest Hill Road, representatives from the Department of Transportation, representatives from Moreland Altobelli, and a representative from the City of Macon. The mediation will take place as soon as a mediator can be selected and a date established. It is the intent that the proposed mediation will not otherwise delay or stop the process of acquiring right of way along Forest Hill Road as is currently taking place nor delay the Project in any way.

32.

The mediation began on February 28, 2008, and continued until August 6, 2008, with former Court of Appeals' Judge Dorothy Beasley presiding. Over the course of the mediation, continuous efforts were made to reach a compromise on the project to no avail.

33.

Options were thoroughly discussed with each side, and efforts were made to compromise on various features of the project. A point was reached when it was evident that a settlement could not be reached on any of the proposals; therefore, the matter was returned to the Bibb County Board of Commissioners. The Bibb County Attorney, Mr. Virgil L. Adams, presented the report to the Commission in a closed session on August 20, 2008.

The Purpose of the Project.

34.

The purpose of this project is to provide additional capacity on the roadway from Forsyth Road to Northside Drive, to improve the traffic mobility for the entire section, and to provide safer access to street intersections and private driveways.

35.

Due to the present congestion that is on Forest Hill Road, the design approved is the most appropriate. Forest Hill Road has 141 private driveways along the project and 22 street intersections. There were 404 accidents along the road from 2004 through 2010 — 64% were from rear-end collisions and left turns. Traffic counts from 2011 show 14,400 vehicles per day just north of Overlook and 10,300 vehicles per day just north of Lokchapee Drive.

36.

RIP has finished right-of-way acquisition on the three-lane section of Forest Hill Road. To date, 120 parcels of required right-of-way have been purchased at a cost of \$1.2 million.

37.

Right-of-way acquisition has not started on the four-lane section, which has 69 parcels to acquire. RIP has expended \$1.9 million on design of the projects so far.

38.

GDOT let to contract the three-lane section of Forest Hill Road, Project No, 8, at a cost of \$8.4 million on December 14, 2012. To date, RIP and GDOT have let to contract 113 road improvement projects in Bibb County totaling \$276 million.

Further affiant sayeth not.

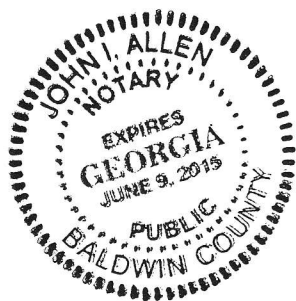
This the 15th day of January, 2013.

Van Etheridge
Van Etheridge

Sworn to and subscribed before me,
this the 15 day of January, 2013.

John I. Allen
Notary Public
My commission expires: 6/9/15

(SEAL)



CERTIFICATE OF SERVICE

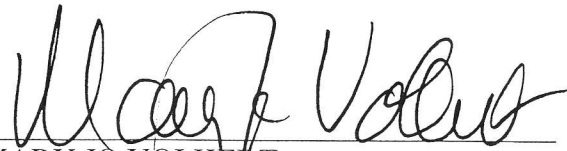
This is to certify that I have this day served a copy of the within and foregoing:

AFFIDAVIT OF VAN ETHERIDGE

by U.S. Postal Service upon the following:

Lindsay D. Holliday
3091 Ridge Avenue
Macon, GA 31204

This 17th day of January, 2013.



MARY JO VOLKERT
Senior Assistant Attorney General