

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 28, 2016
3:00 p.m.

Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2nd and 4th Thursday of each month at 7:00 p.m.

Call to Order

Chairman Oddo called the January 28, 2016 Board of Commissioners meeting to order at 3:07 p.m.

Invocation by Commissioner Charles Rousseau

Commissioner Rousseau offered the Invocation.

Pledge of Allegiance

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

Acceptance of Agenda

Commissioner Brown moved to accept the Agenda as published. Commissioner Ognio seconded the motion. No discussion followed. The motion passed 5-0.

PROCLAMATION/RECOGNITION:

1. **Presentation by Fayette County's auditing firm, Nichols, Cauley & Associates, LLC, of the results of the Fiscal Year 2015 annual audit.**

Mr. William Sammons, Audit Partner, and Mr. Gregory Chapman, Audit Manager, presented the Board with the audit overview for the county for Fiscal Year 2015.

Commissioner Ognio asked if they could expand on single audits.

Mr. Chapman stated that what they do is part of a governmental audit. He stated that if there is more than \$500,000 this year and \$750,000 next year, in federal awards, then the auditors are required to provide single audit procedures which means they review the major awards. He stated that this year the audit focused on the Emergency Operations Center grant and in prior years the audit focused on confiscated funds from the Sheriff's office.

Mr. Rapson recognized the Finance Department on their part with the audit.

There was no Board action on this item. A copy of the request, identified as "Attachment 1," follows these minutes and is made an official part hereof.

PUBLIC HEARING:

There were no public hearings.

CONSENT AGENDA:

Commissioner Ognio requested to remove Consent Agenda Item 2.

Commissioner Ognio moved to approve Consent Agenda with the exception of Consent Agenda Item 2. Commissioner Brown seconded the motion. The motion passed 5-0 to accept the Consent Agenda with the exception of Consent Agenda Item 2.

- 2. Approval of staff's recommendation to purchase Electronic Plan Review & Submittal Software from Sages Networks, Inc., for a first-year cost of \$17,550.00, to purchase computer-related equipment for \$4,893.00, to transfer an aggregate \$22,443.00 from Fiscal Year 2016 Project Contingency Funds to the General Fund, and to authorize the Chairman to sign the contract and any related documents.**

Commissioner Ognio stated that he had a problem with the process that was used to approve this software. He understood the request was sent out for bid, but the county received only four bids even though there are a lot of companies that have this type software. He wanted to be sure that staff had looked closely at the other software and that the county is getting the right package for its needs.

Mr. Rapson addressed Commissioner Ognio's concerns. He stated that he was not on the evaluation team. He explained the bid process and the steps taken in the decision to choose the software. He informed the Board that the bid for a professional service contract was posted on the website and advertised. He noted that the bid was also sent to thirty-six vendors who have registered with the county over the years and was posted on the Georgia Registry. He shared that the Georgia Registry is for vendors registered in the state of Georgia, which includes 2,226 firms that provide this type software. He explained that six vendors attended the mandatory pre-bid meeting and solicitations were received from four. The firms were evaluated technically and two firms were selected to make oral presentations and from those presentations, this recommendation is before the Board.

Mr. Rapson stated that Commissioner Ognio had referred to two firms and he mentioned that of the two that of the two, no information could be found on one of the firms located in Arizona and that the second firm, which is based in Phoenix, Arizona, had already received the bid through a bid system that had picked up the Georgia Registry posting. He stated that the company had chosen not to put in a bid because the county's existing system would have to work with their system.

Mr. Rapson stated that in regards to the amount of the bid, each company submitted five year contracts, but the proposed vendor recommendation was \$99,554 over the course of five years. The pricing for such a system didn't make financial sense since the revenue brought in is about \$800,000 to \$900,000 a year and paying \$100,000 did not make sense. He stated that they brought the vendor in and he agreed to lower his pricing from \$18,999 a year to \$10,000 a year for five years. He stated that the contract was constructed so that if after six months or a year if it is not working as expected, the county has ways to get out of the contract.

Permits and Inspection Director Joe Scarborough and Assistant Director of Permits and Inspection Steve Tafoya, spoke regarding the scope of work needed for this software. Mr. Scarborough stated that one of the reasons for the low turn outs for this Request for Proposal has to do with the firm's ability to merge with the county's existing software system, which is InterGov. He stated that not all of the software vendors could provide that service. He further explained the process used and the functions of the recommended software.

He stated that this software will not only be used in Permits and Inspections but also for Planning and Zoning, Environmental Health, Environmental Management and the Fire Marshal to receive the plans and permits applications as soon as Permits and Inspections receives them.

Commissioner Ognio asked about the plan review and markups that could be done with this program, and, if, should there be a need for a different program, would the county lose any functionality.

Mr. Tafoya stated that one of the things that they wanted to ensure is that the software interfaced appropriately and would carry them into the future. He stated that the other consideration when selecting the software was the insufficiencies on the audits and trying to resolve those.

Commissioner Brown asked if the software gives those on sight the ability to input the data from the field. Mr. Tafoya replied "yes."

Commissioner Brown asked if anyone who is currently using InterGov was contacted to find out if they are having any problems with the transition.

Mr. Tafoya stated that the county is likely the first one to have this situation. He stated that staff had contacted InterGov who reviewed the bid and Intergov would not bid on it themselves. He stated that one of the goals for the County is to become totally paperless. He informed the Board that this recommendation also includes the cost for desktop scanners for inspectors to have to help those that are not computer literate.

Commissioner Ognio stated that this is good for the small sketches, but asked if the scanners would work for the larger sketches.

Mr. Tafoya stated that the goal is for the commercial and residential builders that have architectural plans to submit electronic files. He added that there is a wide scanner as well in the office.

Commissioner Barlow stated that it is his understanding that in Environmental Health the permits for the septic system is one of the initial hold ups. He asked how the software would expedite that process.

Mr. Scarborough stated that he did not know that it would expedite the process, but that the software would help to hold them accountable.

Commissioner Rousseau commended staff on the selection of this software and he hoped that the scope of work was written in a way that prevents future change orders.

Commissioner Brown moved to accept the staff's recommendation to purchase Electronic Plan Review & Submittal Software from Sages Networks, Inc., for a first-year cost of \$17,550.00, to purchase computer-related equipment for \$4,893.00, to transfer an aggregate \$22,443.00 from Fiscal Year 2016 Project Contingency Funds to the General Fund, and to authorize the Chairman to sign the contract and any related documents. Commissioner Rousseau seconded the motion. The motion passed 5-0. A copy of the request, identified as "Attachment 2," follows these minutes and is made an official part hereof.

3. **Approval of the disposition of tax refunds, in the aggregate amount of \$2,312.65, as recommended by the Tax Assessor's Office. A copy of the request, identified as "Attachment 3," follows these minutes and is made an official part hereof.**
4. **Approval of the January 14, 2016 Board of Commissioners Meeting Minutes.**

OLD BUSINESS:

5. Discussion concerning Fayette County's Ethics Ordinance. This discussion was tabled during the December 10, 2015 Board of Commissioners meeting.

County Attorney Dennis Davenport reminded the Board that it directed him to give a recommendation for proposed changes to the Ethics Ordinance. He stated that a memo accompanied the draft ordinance that explained some of the significant changes that are being proposed.

He stated that the biggest change had to do with the body that hears the complaints. He stated that when you think about an ethics complaint being filed it is either against an employee, appointed official or an elected official. He stated that complaints are typically filed against elected officials. He stated that if it is filed against an employee, chances are that it is something that would be handled in the disciplinary policy through the employee handbook. In the proposed Ethics Ordinance, the Board of Commissioners would serve as the Ethics Board and would hear complaints filed against appointed officials. He stated that by having the Board of Commissioners serve as the Ethics Board there is a level of government that didn't exist before and will not exist again since, basically, there is no board to appoint members to, to take minutes for, or to make ensure they follow the proper rules and procedures. He stated that the Commissioners do all those things anyway as the sitting Board.

Mr. Davenport stated that if an ethics complaint was filed against one of the members of the Board of Commissioners, then the Board would not hear that complaint. He explained that in a previous ordinance there was put in place a panel of three county attorneys within a reasonable geographic proximity that would serve as the Ethics Board for a complaint filed against an elected official.

He further explained what the penalties would be for a violation of the Ethics Ordinance. Mr. Davenport drew the Board's attention to the section regarding a disclosure versus a recusal. He stated that the amount needed to be objective to determine when the threshold for disclosure is met. He informed the Board that they will need to set the amount for disclosure and the amount for recusal.

Commissioner Brown stated that he was concerned about using the Board of Commissioners as the body for hearing an ethics complaint since the Board should avoid the appearance of impropriety. He stated that he does not want to be in a position where the Board is hearing a complaint related to a person that was appointed by the Board and be accused of rendering a decision or not rendering a particular decision because the Board is the one that appointed the person. He stated that he would rather have another body appointed to hear the ethics complaints.

He further stated that he personally thought the proposed \$500 recusal amount was too high. He asked, in relation to the County Administrator and County Attorney, if they are included under the employee portion or under the Board of Commissioners portion in terms of the hearing that would be recommended.

Mr. Davenport stated that as part of the definition of county official and with respect to anyone that would not go through the disciplinary process, they would fit within the appointed official and not the elected official and as it is currently written, the complaint would be heard by the Board of Commissioners.

Commissioner Brown noted for the record that the proposed ethics ordinance would not apply to the Tax Commissioner, the Sheriff, the Judges or any other elected official or constitutional officer in the county.

Mr. Davenport stated that is correct.

Commissioner Brown pointed out that on page five, Section 2-204(c) it states, "the dispensing of special favors or privileges to anyone," and he wondered if the statement was too broad of a statement. He next pointed to section, Section 2-204(d) where it reads, "inconsistent with the conscientious performance" and he stated that the interpretation was subjective. He also addressed concerns with Section 2-205 (b), referring to bringing the complaint, where it reads "six months from date if you weren't aware" and then in section (a) it provides for forty-five days.

Mr. Davenport replied that there is a forty-five day limit to file a complaint initially. He stated that if someone is not aware of the violation and has no reason to be aware of it, the violation can be reported after forty-five days because if the reporter was unaware, but under no circumstance can it be filed after six months.

Commissioner Brown asked, should someone be hiding something and it could be proven, would that nullify the complaint if it is found out a year later.

Mr. Davenport stated that if someone is intentionally hiding something then that act is occurring today, not six months ago. He stated that he would argue that "today" is day one of that act.

Commissioner Brown suggested the limitation should be increased to one year instead of six months. He continued that on page six, Section 2-205 (f); he would like for the ordinance to say "Griffin Judicial Circuit or Circuits that abut Fayette County" in the event there was an incident where someone was allege to have an incident with an entity in another county who is also an elected official that causes everyone recuse themselves and where nobody wants to be a part of the hearing.

Commissioner Ognio stated that he is on the same page of not wanting the Commissioners to conduct the ethics hearings. He stated that he would like to see the three attorney panel handle that type of hearing and not have the Commissioners even appoint a committee. He believed it would place the Commissioners in a bad position to appoint people who will conduct the ethics hearing over the people who the Commissioners appointed.

Chairman Oddo stated that he had no objections to that.

Commissioner Brown stated that he would like to know the Board's thoughts on the recusal amount.

Commissioner Ognio stated that he does not disagree with that amount.

Commissioner Brown stated that one-hundred and one dollars is what the State recommends per filing.

Mr. Davenport clarified that the one-hundred and one dollars amount is for disclosure.

Commissioner Brown stated that he knows, but that it is a standard that has already been created and can be used as a rationale.

Chairman Oddo asked if three-hundred and fifty dollars is reasonable.

Commissioner Brown stated that he was just looking at the official reporting for the State and he would say anything at one-hundred and one dollars or over should be used to recuse.

Commissioner Ognio stated that customers he deals with in business will not even accept a cup of coffee, and if it is that way in the private sector, then it should be the same in the governmental sector.

Commissioner Brown stated that this would be for an individual who has a direct financial interest in whatever the decision is that is going to be made.

Mr. Davenport stated that in comparison to the Zoning Procedure Acts, Ethics in Government section with respect to zoning issues, it requires someone who donates two-hundred and fifty dollars to someone's campaign to disclose that prior to going before anybody for a zoning hearing. He reiterated that is just for disclosure and not recusal.

Commissioner Ognio suggested that the Board align the amounts with the Planning and Zoning Board.

Mr. Davenport reminded the Board that the amount is just a disclosure requirement.

Commissioner Ognio stated that the person would have to disclose it, but the Commissioner would have to recuse themselves.

Mr. Davenport stated that if it is aligned with their amount, even though it is a disclosure requirement with a two-hundred and fifty dollar ceiling, when the two-hundred and fifty dollars is reached, the individual would have to disclose on the Planning and Zoning side and recuse on the ethics side.

Commissioner Ognio stated that is correct.

Mr. Davenport reiterated that any amount from one-hundred and one dollars to two-hundred and forty-nine dollars would be disclosure, but not recuse.

Commissioner Brown stated that as a general policy, when he was in Peachtree City, if someone contributed to his campaign he would recuse himself.

Chairman Oddo stated that for recusal they could change the amount from five-hundred dollars to two-hundred and fifty dollars.

Commissioner Brown stated that he had no problem with that.

Commissioner Rousseau asked for confirmation that the amount is a state-based number.

Mr. Davenport confirmed that it is a state-based number for disclosure purposes.

Commissioner Rousseau asked if there would be a conflict if the Board changed that number for disclosure versus recusal.

Mr. Davenport stated that the practical effect would be if someone gave three-hundred dollars for a Commissioner's campaign and they came in to get property rezoned, the state requires they have to publicly disclose that they gave the Commissioner three-hundred dollars for his campaign, and Fayette County would require that Commissioner to recuse himself and not participate or vote on the item.

Commissioner Rousseau asked if the burden was on the person approaching the Commissioners or was it on the Commissioners.

Mr. Davenport stated that the state burden of the disclosure is on the petitioner for the rezoning and the ethical burden, from the county's perspective, is on the Commissioner because they received the dollars.

Commissioner Rousseau asked what if the Commissioner does not remember receiving the contribution.

Mr. Davenport stated that it is not whether you knew or not, it is an objective, did you receive it. He stated that if the Commissioner received the contribution and participated and voted in the hearing, even if they do not recall receiving the donation, it would be a violation of the Ethics Ordinance.

Commissioner Rousseau asked how to address that concern.

Mr. Davenport stated that to address that concern the reader would have to interject subjectivity into the arrangement. He stated the subjective is what should have been known versus the objective of "did you receive it." He explained that the objective requirement is the easiest to say is a violation. He stated that the subjective requirement is what a reasonable commissioner should have known. He stated that he did not include a limitation of time. He stated that a time frame may be something to consider if the ordinance will include these objective numbers.

Commissioner Rousseau suggested using an election cycle.

Commissioner Brown stated that he has had two complaints filed against him that were both dropped. He stated that what happens sometimes is what is known as a "slap suit" or strategic lawsuit against public participation, and he explained that is when someone files an aggravated ethics complaint against someone two months prior to an election in order to stir up the news media and to sway votes. He stated that he would love to see something where, if a complaint is being filed, that the person who is being accused has the ability to have a primary hearing to determine if the complaint is frivolous, and for the primary hearing to be held in an expeditious manner so that it does not become a weapon to be used against them.

Mr. Davenport stated that the determination would occur within thirty-days if it is not against an elected official. He stated that if the complaint is filed against an elected official it occurs, it would presumably be heard within thirty-days, but in reality it would be based on whatever time it takes to bring in a county attorney who is close by to make that determination. He stated that it is not something that he can set a time frame for because we are dealing with people who the county has no control over. He stated that to put in an objective number in the ordinance would be unenforceable and would be directive to them but not mandatory.

Commissioner Rousseau pointed out that the issue of the Board sitting as an Ethic Board has both pros and cons. He stated that if the Board did appoint an individual and they liked one department head but not like the other, human nature can creep in and the Board could be accused of making a decision based upon liking or disliking the department head. He stated that on that issue what is the pros and cons of the Board sitting on the Ethics Board that hears complaints for department heads and individuals that the Board appoints to various areas.

Mr. Davenport stated that the Board would not have to sit on a department head complaint since those complaints would go through the personnel process.

Commissioner Rousseau clarified that it is narrowed down to those the Board appoints and to the particular bodies under the Board's jurisdiction. He stated that the Board oversees their function and performance anyway and he asked what is the drawback of the Board in making a determination if a complaint is made.

Mr. Davenport replied that one level of review that is in the ordinance is that the standard for finding a violation is a "clear and convincing evidence" standard. He stated, to Commissioner Brown's point, where the Board has made appointments, the Board may not want to find against them. He stated that this is not quite the beyond a reasonable doubt standard, but it is greater than a preponderance of the evidence standard. He concluded that there has to be some real convincing evidence that this person violated the ethics ordinance.

He stated that the first review is the thirty-day period where they would sit as a body to determine whether or not there is sufficient information to make a valid ethics complaint.

Commissioner Rousseau asked what investigative powers the Board of Commissioners has as a body. He stated that obviously they can look at the ordinance and the bylaws and determine if something is amiss, but he asked if the Board could issue subpoenas, for clarity on the ability to conduct investigations, and if it could compel people to testify against their Fifth Amendment right if invoked.

Mr. Davenport stated that as the body hearing the complaint, the Board would not want to investigate the complaint. He stated that all that should be done is to look at the complaint and, assuming everything that is presented is true, determine if there is sufficient information that would be a violation of the ethics ordinance. He stated it is probable cause and nothing more. He stated that once it is determined that this is a violation of the ethics ordinance, the Ethics Board is the hearing arm and not the investigatory arm. He stated that it is up to the person who brought the complaint to provide the evidence showing that someone violated the ethics ordinance.

Commissioner Rousseau replied that he see dangers in that process since claims can be manufactured. He stated that if the Board does not do a reasonable investigation of truth then it would be taking people at their word that could have a hidden agenda or vendetta. He stated the Board would be in a position of compromising someone's professional name or integrity if information is manufactured or untrue and a ruling is made against them.

Mr. Davenport stated that he understands what is being said, but that Commissioner Rousseau is mixing the duties of the hearing officer with that of the prosecutor. He stated that the Ethics Board does not have both duties.

Commissioner Oddo stated that if the ordinance is changed to the county attorneys sitting on the Ethics Board, they would have the expertise to conduct the hearings.

Commissioner Rousseau stated that he doesn't particularly object to attorneys from the Circuit, but he would prefer that the community make up the Ethics Board.

Commissioner Brown asked if the Board agreed that it should not be the Board of Commissioners who adjudicate the hearings.

Commissioner Rousseau asked, if not the Board, then who.

Commissioner Ognio stated that he sat through some of the ethics hearings and he watched how they were handled. He stated that when you have citizens who do not know the legal process, the hearing is not handled well. He stated that if attorneys would know the process so the hearings would be smoother.

Commissioner Rousseau asked what liability falls on the Board if legal counsel comes before the Ethics Board and the Board makes a procedural or legal mistake and winds up getting sued as a result of their decision for not knowing some level of the law.

Mr. Davenport stated that there are two answers. He stated that the first is that as long as a Commissioner is exercising their authority in good faith within the scope of duties, the exposure is limited to relatively an insubstantial amount. He stated that he did not address the role of the county attorney in the ordinance because he did not think the county attorney should play a role. However, he explained that if the Board of Commissioner is faced with a complaint and a defense that are both represented by legal counsel then there would be nothing wrong with having legal counsel advise about process and procedure.

Commissioner Rousseau asked it that would run up a legal bill.

Mr. Davenport stated yes.

Commissioner Rousseau asked if that would apply to anyone that is placed in this capacity and would they be represented by counsel in the performance of their duties.

Mr. Davenport stated that it depends on how the Board wants it to look. He stated that the starting point is that there is no counsel and when operating in good faith consistent with the scope of duties and responsibilities, the Board would be officially immune with respect to whatever happens when sitting in that capacity.

Commissioner Rousseau stated that he is open to the Board of Commissioners sitting as the Ethics Board.

Mr. Davenport recapped the issues discussed. He stated that on page five Section (c) the language regarding special favors is subjective and broad. He stated that the counter balance to that is the clear and convincing evident standard and it takes a majority of the Board to make that decision. He stated that the ordinance would be fine without Section (c) and it is workable with it, but that it is up to the Board to decide.

He stated that the election cycle can be added as a window to determine if someone received dollars from one date to the next. The consensus was to add that language.

Mr. Davenport addressed Section (d); the conscientious performance of governmental duties. He stated that it is the same issue as Section (c), it is a matter of preference. He stated that the reason this type language is included is because in his opinion, ethics ordinances are not meant to be lengthy pages of specific objectives of "don't dos". He stated that it is aspirational.

In regards to the disclosure versus recusal, Mr. Davenport stated that he is hearing that the Board wants to include greater than one-hundred dollars is disclosure and less than two-hundred and fifty dollars is disclosure and two-hundred and fifty or greater is recusal.

He stated that no one other than Commissioner Brown had comments regarding the six month in Section 2-205 (b) which is the length of time someone can file a complaint. He asked if the six month cap was reasonable.

Commissioner Brown stated that he would prefer one year.

Commissioner Rousseau stated that Equal Employment Opportunity Commission (EEOC) has a window.

Mr. Davenport stated that once someone receives their Right to Sue letter there is a ninety day window to sue.

Commissioner Rousseau stated that he would not want to go beyond that.

Commissioner Brown stated that it is different. He stated that the EEOC complaint could have happened a year ago.

Mr. Davenport pointed out that Commissioner Rousseau and Commissioner Brown were saying is two different things. He stated that the initiation of a complaint to EEOC is a long process. He stated that taking a complaint from the agency review to the court is a ninety day window. He stated that the reason it is so short is because "you don't want the window to be so long to keep the complaint outstanding and pending." He stated that the question is "is it reasonable that somebody should have known about this claim". Mr. Davenport stated that he will put in "blank" months and the Board can vote on what the final number will be.

The next concern was regarding page six with respect to the review being conducted to a "probable cause review" when a complaint is filed against an elected official. He stated that initially it is written for it to be a County Attorney with the Griffin Judicial Circuit. He stated that there is a reason to believe that it could impact someone outside of the county within the Circuit. He suggested a compromise could be within the Circuit; however, other circuits abutting this circuit could be utilized to the extent necessary.

Commissioner Brown and Chairman Oddo stated that they had no problem with the compromise language.

Commissioner Brown stated that on page five on Section (c) and (d) that there is a way to bring that in line without a list of things that we will hold people accountable for, but that the ordinance needs something that makes the language a little more specific.

Chairman Oddo stated that the difficulty is that ethics, by its nature, is subjective.

Mr. Davenport stated that he left out one item which is, does the Board of Commissioners sit as the Ethics Board in any capacity.

Commissioner Brown and Commissioner Ognio stated that they prefer not to have the Board of Commissioners as the Ethics Board. Chairman Oddo stated that he is fine with having the County Attorneys as the Ethics Board. Commissioner Rousseau stated that he is the opposite and he is not against the Board of Commissioners being the Ethics Board.

Commissioner Rousseau stated this his issue is that if the Board wants the pleasure of appointing people then it cannot run away from the responsibility of holding them accountable. He stated that it is called "leadership."

Chairman Oddo stated that he feels that is the correct approach but he could go either way.

Mr. Davenport stated that he would put in two opposing paragraphs and the Board could make a decision. He stated that he would bring this ordinance back at the February 25, 2016 Board of Commissioners meeting.

Commissioner Rousseau moved to table the Ethics Ordinance to the February 25, 2016 Board of Commissioner meeting. Commissioner Brown seconded the motion. There was no further discussion. The motion passed 5-0. A copy of the request, identified as "Attachment 4," follows these minutes and is made an official part hereof.

NEW BUSINESS:

- 6. Approval of a request from the County Clerk for authorization to file the required Certificate of Appointment indicating that the Fayette County Democratic Party has re-appointed Darryl Hicks to the Board of Elections for a four-year term commencing February 1, 2016 and expiring January 31, 2020.**

Commissioner Ognio stated that he always felt it was odd that the Board had to approve the party's nominee.

Chairman Oddo asked if this was a state requirement.

Mr. Davenport stated that this is not an approval of the nominee. He stated that it is acknowledgement of the nominee for the final certification, and he explained that the Local Act requires that the appointment to come through the Board for acknowledgement.

Commissioner Brown stated that is so it will appear on record.

Mr. Davenport stated that is on the record and it has to go downtown to be approved and sealed to make it official.

Commissioner Rousseau asked if the Board of Commissioners oversees the Board of Elections.

Mr. Davenport stated the Board of Commissioners does not oversee the Board of Elections since the Board of Elections is an "independent" board.

Commissioner Rousseau moved to approve the request from the County Clerk for authorization to file the required Certificate of Appointment indicating that the Fayette County Democratic Party has re-appointed Darryl Hicks to the Board of Elections for a four-year term commencing February 1, 2016 and expiring January 31, 2020. Commissioner Brown seconded the motion. Discussion followed. The motion passed 5-0. A copy of the request, identified as "Attachment 5," follows these minutes and is made an official part hereof.

- 7. Approval of a request from the County Clerk for authorization to file the required Certificate of Appointment indicating that the Fayette County Republican Party has appointed Aaron Wright to the Board of Elections for a four-year term commencing February 1, 2016 and expiring January 31, 2020.**

Commissioner Brown moved to approve the request from the County Clerk for authorization to file the required Certificate of Appointment indicating that the Fayette County Republican Party has appointed Aaron Wright to the Board of Elections for a four-year term commencing February 1, 2016 and expiring January 31, 2020. Commissioner Ognio seconded the motion. Discussion followed.

Commissioner Ognio stated that there were additional documents placed on the dais. He stated that he has the same comment as he did for Item 6. He stated that he does not see how the board can do anything but approve this item.

Chairman Oddo stated that he has a concern. He stated that this is one of the problems when documents are placed on the dais at the last minute. He stated that there are signed letters from the Republican Party stating one thing and then the latest item is a document with no authorization. He stated that he would like to see an official letter from the Republican Party and that he would like to table this item to the February 11 meeting until the Board receives that official letter.

Commissioner Brown stated that he does not want to be in a position where the Board is managing the political parties. He stated that the Chair of the Republican Party gave the vote with the specific people involved and the way they voted. He stated that if someone has a dispute they can take the course of action through the courts.

Chairman Oddo stated that he also did not want to manage the political parties. He stated that there is a document on the dais but it was not signed.

Commissioner Ognio stated that the letter, dated January 20, says that Aaron Wright is the appointee. He stated that there is no other document that states otherwise. He stated that there is a document from someone from the party that states otherwise, and he questioned which document the Board should go by. Chairman Oddo stated that is his point and that he would like to have the document that "ties all this together."

Commissioner Ognio stated that the original document is on letterhead from the party.

Chairman Oddo stated that the letter came in on January 20 and the new information came in earlier in the day. Commissioner Brown cautioned the Board not to get involved in the intimate party politics and procedures. He stated that if they want to "duke it out", they can do so in Superior Court as they have done recently.

Chairman Oddo stated that if they are given time to "duke it out" before then that would be to their advantage and the Board's advantage. He stated that it would save them from having to go to court and he saw no problem giving them that time.

Commissioner Barlow stated that the courtesy that the Board has always extended someone was that if it was asked to table an item, the Board would table the item. He stated that he has no problem tabling this item at the Chairman's request.

Mr. Davenport stated that he wanted to clear up what he said earlier. He stated that the Chairman stated that he was thinking about making a motion to table. He asked if he had actually made the motion.

Chairman Oddo moved to table the request from the County Clerk for authorization to file the required Certificate of Appointment indicating that the Fayette County Republican Party has appointed Aaron Wright to the Board of Elections for a four-year term commencing February 1, 2016 and expiring January 31, 2020 until the February 25, 2016 Board of Commissioners meeting. Commissioner Barlow seconded the motion. Discussion followed.

Commissioner Rousseau asked if the documents submitted were properly before the Board according to the process that governs the Board.

Mr. Davenport reiterated that the Enabling Legislative Local Act, which puts the Board of Elections in place, requires that each political party present to the Board their appointment for the four-year term from that party. He stated that once it is presented to the Board then the Board acknowledges the appointment and it goes downtown and is made official and that person is on the Board of Elections. He stated that there has never been a time where there are two competing letters from the same entity stating two different things.

Commissioner Rousseau stated that his question is if the documents are properly before the Board procedurally.

Mr. Davenport stated that he answered the best he could.

Commissioner Brown stated that it would not technically be the same entity. He stated that one is the entity providing information and the other is from members of that entity who are objecting the information.

Mr. Davenport stated that the last time this issue came up someone was sitting in the seat and the letter said that they wanted someone else to be appointed to the seat and it was not up for reappointment at the time. He stated that before the Board could rule on it, not as an oversight ruling, but as an acceptance of the appointment, which probably would have been accepted, a temporary restraining order was filed and it went to the courthouse instead. He stated that in this case there is a seat that ends January 31, 2016 and the person holding that seat, holds it until her accessor is appointed. He stated there is

no vacancy created. He stated that to Commissioner Brown's point, one letter has letterhead and the other does not and they both report to be from officials within the same party stating two different things. He stated that he has never experienced this before to say what is to be done.

Commissioner Ognio stated that to address Commissioner Rousseau's question, it was put on the agenda properly, but it is a matter of what prudence is put on any other information.

Chairman Oddo reiterated that the information came in late.

Commissioner Rousseau stated that he is not opposed to tabling this item.

Chairman Oddo stated that he expects a letter from the Republican Party that they have all agreed to.

Commissioner Brown stated that the problem is that this is an election year and qualifying will take place in March. He stated that if this item is tabled until February it would be putting someone in that position that has less than a month to work on the election.

Chairman Oddo stated that he does not see the difficulty in letting the party come up with an answer.

Commissioner Brown replied that he did not agree with the rationale. He stated that when the Board is presented with the people who voted and how they voted, he did not see how the Board could say "this is not good enough."

Aaron Wright spoke on this issue. He stated that there were thirty-seven precincts given advanced notice to vote and that he won by a vote of twenty-two to nine. He stated that the Board has a letter signed by the Chairman of the Fayette County Republican Party stating this information. He stated that there is no county meeting slated between now and the time that the next Board of Commissioner meeting would be held.

The motion to table the request from the County Clerk for authorization to file the required Certificate of Appointment indicating that the Fayette County Republican Party has appointed Aaron Wright to the Board of Elections for a four-year term commencing February 1, 2016 and expiring January 31, 2020 to the February 11 Board of Commissioner meeting, passed 3-2 with Commissioner Brown and Commissioner Ognio voting in opposition. A copy of the request, identified as "Attachment 6," follows these minutes and is made an official part hereof.

8. Consideration of staff's request to adopt Ordinance 2016-03- Transportation Committee.

Mr. Davenport reminded the Board that he was asked to look at matter and reconcile the ordinance with any changes that had been made so there would be no conflicts. He reported that he took the number of the proposed committee of twelve members and reduced it by one to make it eleven members, and he explained that an odd number is best to minimize the risk of an issue of not carrying a majority vote. He stated that if that suggestion was accepted, the quorum of this committee would reduce from seven members to six members. He stated that the original proposal was with two citizen members but that number would be reduced to one citizen member.

Mr. Davenport explained that there was some language that made it unclear whether or not elected officials from municipalities would be eligible to serve. He stated that he removed the language that caused that interpretation to be less than clear and made it clear that they can serve.

Mr. Davenport stated that there was some other language relating to disqualification. He stated that if a member of the committee qualifies or becomes an elected official they are disqualified from the committee. He stated that if a member of the committee is a city resident, qualifies, and is elected to city office, the ordinance allows for a city elected official on the committee. He stated that he bolded that text because that he was not sure whether the Board wants to keep that language since is an internal conflict by the way the committee is made up.

Commissioner Ognio stated his concerns regarding multiple elected officials from one jurisdiction serving on the committee saying the bolded text becomes an issue if someone becomes an elected official for a city that already has a member on the committee.

Commissioner Brown stated that the committee was now down to one citizen member.

Commissioner Ognio repeated that if that one citizen member happens to live in the city of Fayetteville and gets elected and the city of Fayetteville already has a representative on the committee, it becomes an issue.

Mr. Davenport stated that could be addressed by disqualifying that member since there is already one elected official from that jurisdiction on the committee.

Commissioner Ognio stated that would be great and that language needed to be included.

Mr. Davenport asked what if that citizen was elected to the County Commission and there were two County Commission already on the committee. He asked how the Board like to treat that situation.

Commissioner Ognio stated in the same manner as the others.

Mr. Davenport stated that he would amend the language to reflect, that if a sitting member of the committee who is not an elected official qualifies to run for office that would be an automatic disqualification to the extent that an elected official from that jurisdiction is already on the committee. Mr. Davenport stated that he can make that change consistent with that direction.

Commissioner Brown stated that on some of the commissions and authorities there is an attendance requirement. He stated that it would not be a bad idea to have that language in this ordinance as well.

Mr. Davenport stated that the issue with that language is there are multiple jurisdictions appointing multiple members. He asked who is the entity that decides who comes off.

Commissioner Brown replied that the individual jurisdictions would control their appointees to the committee.

Mr. Davenport stated that typically that language says once a member misses three consecutive meetings without cause then the member is subject to being removed, and he reminded the Board that, in general, removal is done by the body that creates the committee.

Commissioner Ognio asked if this is something that can be addressed in the bylaws.

Mr. Davenport stated that it could. He stated that it could also be addressed in the ordinance, and he asked if the Board wanted the ability to remove jurisdictional appointments from the Transportation Committee.

Commissioner Brown stated no.

Mr. Davenport confirmed that the jurisdictions would remove their own appointees from the committee, and Commissioner Brown replied "yes."

Mr. Davenport cautioned that there is nothing that would require a jurisdiction from removing their appointee. He stated that it is going to be a regulation that might not be enforceable because the Board is not the one doing it.

Commissioner Brown stated that if the city is willing to allow no representation from their jurisdiction on the panel then they have the problem and it is not the Board's problem.

Commissioner Rousseau asked if the municipalities had been asked to agree with those terms upfront.

Mr. Davenport stated yes, but the problem with the analysis is that it is not a bright line test where if they miss three meetings and they are gone. He stated that it is if they miss three consecutive meetings without cause they are subject to being removed.

Commissioner Rousseau agreed that whoever originally appointed the person should be the one to remove them.

Commissioner Ognio stated that is why he said it is a bylaw issue since the Transportation Committee could send a letter to the jurisdiction and say we are going to have to remove your representative for lack of attendance. He stated this would not put the burden on the county or city to remove the person.

Mr. Davenport agreed that it is better for the committee to include the provision in the bylaw, but he added there is nothing the Board can do to create that bylaw. He stated that the committee would have to do so.

Commissioner Ognio stated that he understood and that it might be something that needs to be pushed to be put in the bylaws.

Mr. Davenport confirmed that he is only addressing the language that two elected officials from the same jurisdiction are not going to be on the committee at the same time.

Commissioner Ognio confirmed that is correct.

Chairman Oddo stated that he is in favor of a Transportation Committee. He stated that his concern is that there are elected officials on the committee. He explained that his concern was if there are members from elected officials, especially the Board of Commissioners, on the committee then they could direct the outcome of the committee resulting in the Board essentially making recommendations to itself. He stated that he wants unsolicited and honest information from people who understand the road system, and he emphasized that he wanted the Board to receive information but not be on the committee providing the information.

Commissioner Brown replied that the committee would have no bearing on the decision making process since everything the committee does has to go back to the Board of Commissioners.

Chairman Oddo reiterated that the committee would be making recommendations on how the Board should proceed and, therefore, the Board should not be put in the position of guiding or directing the information that would eventually be coming to the Board.

Commissioner Brown stated that Commissioners are on the Hospital Authority and the Building Authority so that there is someone taking the county's view and making sure it is being applied in the mix.

Chairman Oddo stated that the other authorities were watching their money, but there was no money being spent by the Transportation Committee. He repeated his recommendation was to take the elected officials off the committee and come up with a different combination to make up the committee.

Commissioner Brown asked if that meant the municipal elected officials as well.

Chairman Oddo stated that the Board would have to make that decision. He stated that he would prefer take all elected officials off and let them put in their experts.

Commissioner Brown stated that he disagrees with that because staff does the research and they come to the Board or the city council or the town council and it is squashed immediately because there is no interaction between the two bodies. He stated that is why he does not mind having someone from the Board or the city council that can speak up if they see problems.

Chairman Oddo replied that staff can come to the Board in stages and say this is what the Transportation Committee is thinking and that the process does not have to be drawn out to the end before the Board is approached.

Commissioner Ognio thought it would be necessary to have an elected official on this committee since some of the elected officials have information regarding traffic. He stated that it is good to remember that these will be public meetings so citizens will be able to give input. He stated that it is important to have an elected official in this committee.

Chairman Oddo stated that the staff will have all the data and information and that Board members would not bring anything other than their political views.

Commissioner Ognio stated that there are only two representatives who go to Atlanta Regional Commission (ARC) with have no input from the other municipalities on what should be taken to the ARC. He explained that this is the ideal situation for that person to sit in the meeting to determine how the other municipalities feel.

Chairman Oddo stated that it is not that he is not willing to try but he thought the Board should first try the committee without elected officials and see what that brings.

Commissioner Brown suggested that the County Attorney could come back with two more drafts and the Board of Commissioners would vote on one of those drafts.

Mr. Davenport stated that there is not a laundry list of things to address. He stated that the only difference is elected officials or not. He stated that when the Board initially voted on this ordinance it became effective sixty days from the date it was approved, which will be the middle of February. He stated that this ordinance would supersede the earlier ordinance and it says effective within sixty days of adoption. He stated that it buys sixty more days if the Board votes on it now. He stated that if the only obstacle is whether elected officials should be on the committee or not, there are two choices. The choices are to think about it more and come back later or to decide tonight if elected officials should or should not be on the committee.

Commissioner Brown moved to approve the adoption of Ordinance 2016-03- Transportation Committee as written contingent that the ordinance can be changed if the Board determines that it does not work. Commissioner Ognio seconded the motion. Discussion followed.

Chairman Oddo stated that as the member of the Board that represents at ARC, he would be receiving the information and recommendations from the Transportation Committee. He stated that he does not need to be on the Transportation Committee to take the information to the Atlanta Regional Commission. He suggested that the Board appoint a member of ARC to sit in on these meetings as a non-voting member.

Commissioner Ognio stated that if a Commissioner sat in the meeting they would get all the details that they may not get otherwise.

Chairman Oddo asked if there were any comments from the audience. There were no comments from the audience.

Commissioner Rousseau asked if this ordinance did not pass tonight would it come back to the Board within the sixty day timeframe.

Mr. Davenport replied that yes would. He stated that if no vote is passed tonight that members have to be put in place because the committee will be activated.

Commissioner Barlow stated that the Board needs to move forward with this and if changes need to be later then the Board can make those changes.

The motion to approve the adoption of Ordinance 2016-03- Transportation Committee as written contingent that the ordinance can be changed if the Board determines that it does not work passed 4-1 with Chairman Oddo voting in opposition. A copy of the request, identified as "Attachment 7," follows these minutes and is made an official part hereof.

PUBLIC COMMENT:

There were no public comments.

ADMINISTRATOR'S REPORTS:

Westbridge Road Update: Mr. Rapson reported that the contractor has completed the work on Westbridge Road and that the road crew was completing the final pavement. He stated that this was one of the major projects that hit during the December floods.

Potential SPLOST Update: County Administrator Steve Rapson reported that, based on discussion with the cities regarding a potential Special Purpose Local Option Sales Tax (SPLOST) the county and cities are working on a tentative list. He stated that once the list is finalized a recommendation will be brought to the Board for consideration.

Transportation Committee Appointments: County Administrator Rapson informed the Board that it needed to make two appointments to the Transportation Committee. The Board appointed Commissioners Brown and Ognio to a Selection Committee to interview for the citizen member of the committee. Mr. Rapson stated that staff will notify the Sheriff department and other municipalities as well.

ATTORNEY'S REPORTS:

Notification of Executive Session: County Attorney Dennis Davenport reported that the first two items for Executive Session were for pending litigation for consideration of Executive Session minutes from January 14, 2016.

Consideration of Attorney's Fees: County Attorney Dennis Davenport reported that the Board was recently involved, indirectly, in litigation that recently ended. He stated that the litigation involved a current member of the Election Board, Ms. Marilyn Watts. He stated that when that litigation started the Board voted to provide a defense for her because of her capacity as a member of the Board of Elections. He stated that during the course of the litigation approximately \$58,000 was paid for her defense. He stated that the litigation ended with a favorable ruling for Ms. Watts and she was not removed from the Board of Elections.

Mr. Davenport stated that when a party succeeds in litigation it has the option to determine whether to seek attorney fees from the other side. He stated that, in this case, the other side is the Fayette County Republican Party, Scott Fabricius, and Attorney Richard Hobbs. He stated that he was briefing the Board so it could explore pursuing attorney fees if it so wanted. He explained that the Board can seek attorney fees from all or one of the three parties; however the window of opportunity to do so would close on February 15, 2016. He explained that a motion would have to be filed prior to February 15 and he would need direction if that is the Board's desire. He informed the Board that he is not looking for an immediate decision tonight, but he pointed out that the next Board of Commissioners meeting would be held on February 11. He asked that the Board provide direction at the February 11 meeting.

Chairman Oddo stated that his recommendation is to come back at the February 11 meeting and make a decision.

There was no objection to this recommendation.

COMMISSIONERS' REPORTS:

Commissioner Brown:

Involvement in Art Group: Commissioner Brown stated that he is part of an art group that is being sponsored by the Atlanta Regional Commission. He stated that it is a group of different people from all over the metropolitan Atlanta area. He stated that it has been a very valuable experience. He stated that there has been one meeting so far that lasted five-and-a-half hours. He stated that the group is learning different ways to leverage state financing. He stated that he will bring reports as time goes on.

Commissioner Ognio:

Wedding Anniversary: Commissioner Ognio announced that he celebrated his 31st wedding anniversary on Tuesday. He stated that it has been a good thirty-one years.

Recent Meetings: Commissioner Ognio stated that there have been some long meetings, difficult decisions and differences of opinions, but hopefully things will smooth out and move a little quicker. He stated that he appreciates the opinions of his colleagues, that he always respects their opinions, and he hoped that they respect his opinions.

Commissioner Rousseau:

Remembering Flint, Michigan: Commissioner Rousseau stated that he wanted everyone to continue to think in terms of the people of Flint, Michigan and what an awesome community catastrophe they are experiencing. He hoped that the institutions, churches and social services and organizations are helping them out individually. He stated that it makes us thankful for Lee Pope, Water System Director, and his staff. He stated that he knows there is some annual reporting, but that it wouldn't hurt to just let people know where we are right now. He stated this is a good opportunity to let people know the work that is being done at the Water System since its staff was getting certified and since the county's water quality is above standard.

Commissioner Barlow:

Illness: Commissioner Barlow reported that he woke up ill and that he had been sitting in the meeting quietly he was sick, but that he did not want to miss the meeting. He thanked everyone for coming to the meeting.

Commissioner Rousseau, with humor, congratulated Commissioner Barlow on his recent appointment as the Chairman of the Board of Health.

Commissioner Barlow returned the humor by stating that he is not sure if there is a correlation to his appointment and his illness or not.

Chairman Oddo:

Crosstown Water Treatment tour: Chairman Oddo stated that he took a tour of Crosstown and it is incredible what is going on at the plant.

Reply to Commissioner Ognio's comment: Chairman Oddo stated that he agreed with Commissioner Ognio that the Board has differences of opinions but there is no reason the differences should spill out into personalities. He stated that you cannot agree on everything and he thought the Board had done its best to delve into subjects honestly. He stated that the Board has an element of respect for one another and that they need to continue to let that show.

Condolences: Chairman Oddo passed his condolences to Councilman Scott Stacy and his family. He stated that Councilman Stacy's father passed away yesterday.

Challenger Explosion: Chairman Oddo stated that this is the 30th anniversary of the Challenger explosion. He stated that he knows everyone remembers where they were when it occurred. He recalled being in his car listening to the launch and within seconds he walked into his office and was told the Challenger had exploded. He thanked the brave people for doing what they did and expressed that we keep forging ahead and exploring.

EXECUTIVE SESSION:

Pending Litigation and Review of the January 14, 2016 Executive Session Minutes: Commissioner Brown moved to go into Executive Session. Commissioner Ognio seconded the motion. The motion passed 5-0.

The Board recessed into Executive Session at 5:34 p.m. and returned to Official Session at 6:04 p.m.

Return to Official Session and Approval of the Executive Session Affidavit: Commissioner Ognio moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Commissioner Barlow seconded the motion. The motion passed 5-0. A copy of the Executive Session Affidavit, identified as "Attachment 8," follows these minutes and is made an official part hereof.

January 14, 2016 Executive Session Minutes: Commissioner Ognio moved to approve the January 14, 2016 Executive Session Minutes. Commissioner Rousseau seconded the motion. The motion passed 5-0.

ADJOURNMENT:

Commissioner Ognio moved to adjourn the January 28, 2016 Board of Commissioners Meeting. Commissioner Barlow seconded the motion. No discussion followed. The motion passed 5-0.

The January 28, 2016 Board of Commissioners meeting was adjourned at 6:05 p.m.

Tameca P. White, Chief Deputy 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 11th day of February 2016. Referenced attachments are available upon request at the County Clerk's Office.

Tameca P. White, Chief Deputy County Clerk