

## BOARD OF COUNTY COMMISSIONERS

Randy Ognio, Chairman  
Charles W. Oddo, Vice Chairman  
Edward Gibbons  
Eric K. Maxwell  
Charles D. Rousseau



## FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator  
Dennis A. Davenport, County Attorney  
Tameca P. White, County Clerk  
Marlena Edwards, Deputy County Clerk

140 Stonewall Avenue West  
Public Meeting Room  
Fayetteville, GA 30214

## MINUTES

July 9, 2020  
6:30 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 2<sup>nd</sup> and 4<sup>th</sup> Thursday of each month at 6:30 p.m.

### Call to Order

Chairman Randy Ognio called the July 9, 2020 Board of Commissioners meeting to order at 6:30 p.m. A quorum of the Board was present. Commissioner Charles Rousseau was absent.

### Invocation and Pledge of Allegiance by Commissioner Edward Gibbons

Commissioner Edward Gibbons offered the Invocation and led the Board and audience in the Pledge of Allegiance.

### Acceptance of Agenda

Vice Chairman Charles Oddo moved to accept the agenda as written. Commissioner Gibbons seconded. The motion passed 4-0. Commissioner Rousseau was absent.

**PROCLAMATION/RECOGNITION:** None.

**PUBLIC HEARING:** None.

### **PUBLIC COMMENT:**

*Speakers will be given a five (5) minute maximum time limit to speak before the Board of Commissioners about various topics, issues, and concerns. Speakers must direct comments to the Board. Responses are reserved at the discretion of the Board.*

### **CONSENT AGENDA:**

Chairman Ognio moved to accept the Consent Agenda with the correction to add the approval of the May 28, 2020 Executive Minutes to the June 25, 2020 Board of Commissioners Meeting. Commissioner Edwards Gibbons seconded. The motion passed 4-0. Commissioner Rousseau was absent.

1. **Approval of the June 25, 2020 Board of Commissioners Meeting Minutes.**

### **OLD BUSINESS:**

### **NEW BUSINESS:**

2. **Consideration of a recommendation from the Selection Committee comprised of Commissioner Randy Ognio and Commissioner Charles Oddo, to reappoint Elizabeth Morgan to a term beginning July 1, 2020 and expiring June 30, 2023 to the McIntosh Trail Community Service Board.**

Vice-Chairman Oddo moved to approve to reappoint Elizabeth Morgan to a term beginning July 1, 2020 and expiring June 30, 2023 to the McIntosh Trail Community Service Board. Commissioner Gibbons seconded. The motion passed 4-0. Commissioner Rousseau was absent.

**3. Consideration of the County Attorney's recommendation to approve a disposition of tax refund, as requested by Nelda Edwards, for tax years 2017, 2018 and 2019 in the amount of \$192.95.**

County Attorney Dennis Davenport advised the Board that Nelda Edwards requested a partial refund of taxes paid on a residence in Fayetteville, Georgia. Mr. Davenport stated that Ms. Edwards asserted that she qualified for a homestead exemption on her property. He stated that Ms. Edwards applied for and was approved for a homestead exemption. In 2015, Ms. Edwards contacted the U.S. Postal Service to change her mailing address from her residence to a Post Office Box near her place of business and on May 21, 2015, an assessment notice for the 2015 tax year was sent to Ms. Edwards at her residence and was returned to the assessors' office marked undeliverable. Mr. Davenport stated that the Post Office notes on the returned mail indicated that the property was vacant. Three (3) consecutive years of returned mail triggered a Fayette County Assessors policy of homestead exemption removal. Mr. Davenport stated that a letter of intent to deny the exemption was forwarded to Ms. Edwards's physical address on June 8, 2017. On June 27, 2017, having heard no response, the homestead exemption was removed. Mr. Davenport stated that in May of 2019 the mailing address was corrected in the records of the assessors, this correction was made in reliance upon the 2019 assessment returned by the U.S. Postal Service. Mr. Davenport stated that Ms. Edwards submitted her affidavit as to residency according to the law in 2002. He stated that Ms. Edwards claimed to have maintained all legal requirements for the homestead exemption since her original application. Taxes had been fully paid for each tax year.

Mr. Davenport stated that the refund provisions are designed to return taxes that have been assessed and collected erroneously and the removal of the homestead exemption, in this case, was erroneous and caused an increase in the taxes collected for each tax year following the 2017 removal. Mr. Davenport stated that a refund of this increase is recommended for tax years 2017, 2018 and 2019 in the amount of \$192.95.

Vice-Chairman Oddo moved to approve disposition of tax refund, as requested by Nelda Edwards, for tax years 2017, 2018 and 2019 in the amount of \$192.95. Commissioner Gibbons seconded. The motion passed 4-0. Commissioner Rousseau was absent.

**4. Consideration of the County Attorney's recommendation to approve a disposition of tax refund, as requested by Cynthia Mussell on behalf of D.R. Horton-Crowne, for tax year 2018 in the amount of \$23.18.**

Mr. Davenport stated that a tax refund request from Ms. Cynthia Mussell, on behalf of D.R. Horton-Crowne, LLC, was submitted for taxes paid on Parcel 054209001. He stated that the taxpayer claimed the parcel was transferred to River Park Community Association, Inc. in 2016 and requested a refund of those taxes paid on the parcel, since the date of transfer. Mr. Davenport stated that a quit claim deed was executed on December 28, 2016 and recorded on January 11, 2017. This deed caused the transfer of parcel 054209001 from D.R. Horton-Crowne, LLC to River Park Community Association, Inc. He stated that the recorded deed was not found by the assessor's office and for this reason, the parcel remained titled to D.R. Horton-Crowne, LLC Inc. until May of 2020 in the assessors' records. Mr. Davenport stated that at that time, the taxpayer brought the transfer to the attention of the assessors and upon notification, the Board of Assessors authorized a release of the unpaid 2019 billing, based on the error. He stated that D.R. Horton Homes has paid the assessed tax bills for 2016, 2017 and 2018 and requested a refund for these tax years. Mr. Davenport state that D.R. Horton-Crowne, LLC was the proper party for assessment for tax year 2016 and 2017. The transfer of this property occurred on December 18, 2016 between the parties to the deed. However, as to any party outside of the deed of transfer, the deed filing date (January 11, 2017), is the date used to mark the transfer of property. Mr. Davenport stated

that Georgia was a Race/Notice state; as such, the date of filing is determinative of a transfer of property as to any third party to the transfer. He stated that the assessors are a third party to the transfer and are not deemed notified of the transfer until the date a deed is filed in the property record. He stated that property taxes are properly assessed to the party holding recorded title, on January 1 of a given tax year. Mr. Davenport stated that River Park Community Association, Inc. was the proper party for assessment beginning January 1 of 2018. Mr. Davenport stated that the 2018 assessment and collection of taxes from D.R. Horton, LLC. on parcel 054209001 was erroneous. Mr. Davenport stated that the assessors missed the recorded deed transferring title. He stated that this error, found in the record of the assessment, is appropriate to trigger a refund for 2018; as such, a refund is recommended for the 2018 tax year. Mr. Davenport stated that the 2016 and 2017 refunds requested are recommended for denial.

Commissioner Gibbons moved to approve County Attorney's recommendation to approve a disposition of tax refund, as requested by Cynthia Mussell on behalf of D.R. Horton-Crowne, for tax year 2018 in the amount of \$23.18. Vice-Chairman Oddo seconded. The motion passed 4-0. Commissioner Rousseau was absent.

**5. Consideration of a Disclosure Letter of Municipal Advisor Agreement between Fayette County and Raymond James & Associates to provide financial advice regarding the public health building.**

Mr. Davenport stated that this agreement was a preliminary step in financing the public health building. He stated that the agreement would be between Fayette County and Raymond James & Associates. Raymond James & Associates had been identified as the County's financial advisor and the agreement is legally required before providing financial advice. Raymond James & Associates would consult with Fayette County to do a private placement to assist the County in mitigating the costs associated with the development of the public health building. Mr. Davenport stated that a subsequent agreement would also need to be reviewed and approved by the Public Facilities Authority.

Commissioner Maxwell made remarks regarding the Municipal Advisor Agreement between Fayette County and Raymond James & Associates. (remarks inaudible)

Mr. Davenport in response to Commissioner Maxwell advised the Board that Raymond James & Associates would act as consultants for the Board and provide financial advice regarding the public health building. He stated that Raymond James & Associates would be providing advice regarding the private placement. He stated that there would be a bond counsel, Murry Barns Finisher, who would perform the bond transaction with Mr. Davenport's firm in Superior Court.

Commissioner Maxwell stated that he wanted to ensure Raymond James & Associates was not making a self-referral.

Mr. Rapson stated that the Municipal Advisor Agreement between Fayette County and Raymond James & Associates was being put into place to preclude that from happening. Mr. Rapson advised the Board that there would be issuance costs associated with the private placement.

Vice-Chairman Oddo moved to approve Municipal Advisor Agreement between Fayette County and Raymond James & Associates to provide financial advice regarding the public health building. Commissioner Gibbons seconded. The motion passed 4-0. Commissioner Rousseau was absent.

**ADMINISTRATOR'S REPORTS:**

County Administrator Steve Rapson advised that an updated "Hot Projects" listing was sent out via email to the Board to keep them abreast of the status of various projects throughout the county. He stated that the update included details regarding the Dogwood Trail and Kenwood culvert replacements which were targeted for completion August of 2020; and updates regarding Fire Station #2 and Fire Station #4 projects.

### **McIntosh Trail Service Board**

County Administrator stated that there was a vacancy for an elected official seat on the McIntosh Trail Service Board.

Vice-Chairman Oddo moved to appoint Sheriff Barry Babb to the McIntosh Trail Service Board. Commissioner Gibbons seconded. The motion passed 4-0. Commissioner Rousseau was absent.

### **National Association of Counties (NACo)**

Mr. Rapson advised the Board that a voting delegated was needed from the Board for the National Association of Counties (NACo). Mr. Rapson stated that Commissioner Rousseau had previously held that position.

Vice-Chairman Oddo moved to select Commissioner Rousseau as the National Association of Counties (NACo) delegate. The motion passed 4-0. Commissioner Rousseau was absent.

### **ATTORNEY'S REPORTS:**

**Notice of Executive Session:** County Attorney Dennis Davenport stated there was three items for executive session. One Personnel item, one item involving Pending Litigation, and the Review of the June 25, 2020 Executive Session Minutes for consideration in Executive Session.

### **COMMISSIONERS' REPORTS:**

#### **Chairman Ognio**

Chairman Ognio encouraged everyone to please participate in the 2020 Census.

#### **Commissioner Gibbons**

Commissioner Gibbons wished Commissioner Rousseau a speedy recovery.

### **EXECUTIVE SESSION:**

#### **One Personnel item, one item involving Pending Litigation, and the Review of the June 25, 2020 Executive Session**

**Minutes:** Vice Chairman Oddo moved to go into Executive Session. Commissioner Gibbons seconded. The motion passed 4-0. Commissioner Rousseau was absent.

The Board recessed into Executive Session at 6:44 p.m. and returned to Official Session at 7:04 p.m.

**Return to Official Session and Approval to Sign the Executive Session Affidavit:** Chairman Ognio moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Vice Chairman Oddo seconded the motion. The motion passed 4-0. Commissioner Rousseau was absent.

**Approval of the June 25, 2020, 2020 Executive Session Minutes:** Chairman Ognio moved to approve the June 25, 2020 Executive Session Minutes. Vice Chairman Oddo seconded the motion. The motion passed 4-0. Commissioner Rousseau was absent.

Commissioner Maxwell moved to extend the County Administrator's employment agreement to December 31, 2024. He stated that there were a few substantive changes with the employment agreement extension which included: increase to the base salary to \$225,000, which would begin at the next pay period; changes to the annual adjustment amount to 3.25%, adjustment to the amount of personal day's from 29 days to 30 days, adjustment to retirement contribution to 20% of the employee's base salary, and an adjustment to the severance package from nine (9) months to twelve (12) months of the employee's base salary. Commissioner Maxwell stated that there were a few additional minor adjustments to the County Administrator's employment

agreement that the County Attorney would complete. Commissioner Gibbons seconded. The motion passed 4-0. Commissioner Rousseau was absent.

County Administrator Steve Rapson accepted his employment agreement adjustment and extension.

Attorney Dennis Davenport advised the Board of a Settlement Agreement in the amount of \$35,000 for former employee Mr. Duhaney. Mr. Davenport stated that with this settlement there would not be any admission by the County of any rights violations of Mr. Duhaney. Mr. Duhaney has agreed to a general release and has waived all rights which included confidentiality clause, non-disparagement, and separation with no return. Mr. Duhaney has also agreed to dismiss his actions in Federal County with prejudice and agreed to not file any additional suits. Mr. Davenport stated that the County agreed to provide a neutral reference.

Chairman Ognio moved to approve settlement agreement for Mr. Duhaney. Vice Chairman Oddo seconded. The motion passed 4-0. Commissioner Rousseau was absent.

**ADJOURNMENT:**

Chairman Oddo moved to adjourn the July 9, 2020 Board of Commissioners meeting. Vice Chairman Oddo seconded the motion. The motion passed 4-0. Commissioner Rousseau was absent.

The July 9, 2020 Board of Commissioners meeting adjourned at 7:07 p.m.

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Marlena M. Edwards, Chief Deputy County Clerk

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Randy C. Ognio, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 23<sup>rd</sup> day of July 2020. Documents are available upon request at the County Clerk's Office.

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Marlena M. Edwards, Chief Deputy County Clerk