

## BOARD OF COUNTY COMMISSIONERS

Lee Hearn, Chairman  
Edward Gibbons, Vice Chairman  
Eric K. Maxwell  
Charles W. Oddo  
Charles D. Rousseau



## FAYETTE COUNTY, GEORGIA

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

140 Stonewall Avenue West  
Public Meeting Room  
Fayetteville, GA 30214

## MINUTES

April 26, 2022

5:00 p.m.

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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 5:00 p.m.

### Call to Order

Chairman Hearn called the April 26, 2022 Board of Commissioners meeting to order at 5:00 p.m. A quorum of the Board was present.

### Invocation and Pledge of Allegiance by Commissioner Charles Rousseau

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

### Acceptance of Agenda

Commissioner Oddo moved to accept the agenda as written. Vice Chairman Gibbons seconded. The motion passed 5-0.

### PROCLAMATION/RECOGNITION:

#### 1. Recognition of Fayette County Public Works employees for receiving all available recognition awards at the Georgia Utilities Coordinating Council annual conference.

Public Works Director Phill Mallon stated that the Georgia Utilities Coordinating Council (GUCC) existed to promote and encourage local agencies, like Fayette County, to have a local Utility Coordinating Committee, which Fayette County has had for over 20 years. He continued that he was proud to announce that Fayette County was the first community in the history of the Georgia Utilities Coordinating Council (GUCC) to receive all available recognition awards.

Environmental Management Project Manager, Matthew Bergan, stated that on behalf of the local Utility Coordinating Committee he would like to thank Darryl Mitchell with Georgia Power who had been a great help to the committee as well as a personal mentor. Mr. Bergan acknowledged Chairman of the Year -Eddie McEachern, himself as Vice Chairman of the Year, and Secretary of the Year -Courtney Hassenzahl. The Fayette County Road Department Grading Crew was presented with the 2022 Lester E. Feathers Golden Backhoe Safety Award.

Mr. Mitchell with Georgia Power congratulated both the Utility Coordinating Committee and Fayette County Road Department for their defecation and hard work in keeping Fayette County citizens safe and connected.

Roads Department Director Steve Hoffman congratulated his team for a job well done.

**PUBLIC HEARING:**

- 2. Consideration of Petition No. 1318-22 Mark Wurster, Owner, and David Barber, Marksmen Construction, Inc., Agent, request to rezone 1.35 acres from R-45 conditional to R-45 conditional, to delete a condition of rezoning to reduce a 30-foot setback, 20 feet of which shall be a natural buffer along the south side property line to 15 feet to install a septic replacement area and to construct a single-family residence closer to the side property line. This request pertains only to Lot 5 of Olde Oak Unit Three Subdivision and is located in Land Lot 203 of the 5th District and fronts on Olde Oak Drive.**

Interim Planning and Zoning Director Chanelle Blaine *read the Introduction to Public Hearings.*

David Barber representative of the property owner stated that the goal of the request was to delete a condition of rezoning to reduce a 30-foot setback, 20 feet of which shall be a natural buffer along the south side property line to 15 feet, to install a septic replacement area and to construct a single-family residence closer to the side property line.

Commissioner Oddo stated that during his review of the request he had concerns because he could not determine why the conditions had been placed on the property. He also stated that he was hesitant in considering this request because neighboring properties potentially had similar conditions that had been met and approving this item could create a slew of additional request.

Ms. Blaine stated that the past conditions may have been set arbitrarily and added that if this subdivision had been created in present day, the conditions would not have been placed onto the lot.

Commissioner Oddo stated that in looking at the map it seemed that surrounding homes were built closer to the road. He asked where the home would be situated on the property.

Mr. Barber stated that the reason the home could not be positioned near the road was because there was a drainage easement built at the front of the property, as a result, the home had to sit further back. He continued that the proposed location of the home was within the "conditioned" 50-foot buffer which was why the request was to delete the condition. Mr. Barber reiterated that no one could explain why the condition was placed on the property to begin with and his goal was to be able to move the house so that it was 20-feet from the property line to ensure they have adequate space for the replacement septic system.

Commissioner Oddo asked when the easement was put in place.

Mr. Barber stated that the easement was put in place when the subdivision was first established.

Commissioner Oddo asked if there were other properties within the county like this one, that were currently unbuildable.

Ms. Blaine stated yes, there were more lots within the County that had increased setbacks that were posed by rezoning. She continued that within the county ordinance, in the subdivision regulations, a process was already in place that allowed property owners to petition the Board regarding setback changes.

Commissioner Oddo asked Mr. Davenport if this type of request was typical.

Mr. Davenport stated yes, the Board handled these types of requests as part of the rezoning process. Mr. Davenport stated that he wanted to correct something that Commissioner Oddo previously stated. He stated that it was said that "other lots had met the same condition", however, this lot was in fact the only lot that had the side yard condition impacting it. All the other lots south of Olde Oak Drive required the rear lot buffer. Mr. Davenport stated that he would be reluctant to describe the condition as an arbitrary decision by the Board in 1986 and added that he was sure they had their reasons. Mr. Davenport noted that similar to when the current Board received rezoning requests and as a condition of approval an applicant would accept various condition. He reminded the Board that when the zoning for the property was approved, the land was not yet platted. It was one large piece

of property and the property in question was the smallest lot and the last lot in the subdivision to be developed on. This was probably for a reason.

Commissioner Oddo stated that he felt that consideration and approval of this request would be setting somewhat of a precedent. He stated that in his opinion, the developer should have realized that this lot would not have been buildable without removing some of the conditions that were agreed upon and this was concerning to him. Commissioner Oddo stated that he was always hesitant to vote against what a previous Board put in place and he wished he knew the reason they required the condition.

Mr. Davenport stated that the Board, a few weeks prior, acted on a condition of rezoning. He continued that some conditions can easily be identified as problematic and difficult to defend.

Commissioner Rousseau asked the County Attorney if a request like this was considered a case-by-case situation or would approval of this request be precedent setting.

Mr. Davenport stated that it would be on a case-by-case basis. He also stated that not only were there subdivision regulation factors to consider, but also this type of request was a rezoning and rezoning factors should also be considered as well. He stated that the focus was not just on one lot compared to other lots in the neighborhood but also the general impact with respect to the area. Mr. Davenport stated that any time a condition is removed it could be precedent setting depending on the type of condition.

Vice Chairman Gibbons stated that this request made sense to him. He added that the County subdivision ordinance created this process to allow property owners the opportunity to petition the Board for such request, so a precedent was already established in his opinion which was why the process was put in place.

Commissioner Maxwell asked Mr. Barber how far he was into the project.

Mr. Barber stated that this all came about when he applied for the septic permit. He stated that he would not be allowed to have the septic system in the buffer.

Commissioner Maxwell asked if the land had been cleared.

Mr. Barber stated yes, a land disturbance permit was pulled, and the land had been cleared.

Commissioner Maxwell asked if there was any construction at the site.

Mr. Barber stated, "no".

Commissioner Maxwell stated that even though he was unaware of the reason the condition was required he would assume the Board of 1986 had their reasons. Commissioner Maxwell asked what exactly was being requested.

Ms. Blaine stated that approval of this request would revert the property to the normal 15-foot setback and remove the buffer.

Commissioner Maxwell stated that he had similar concerns as Commissioner Oddo. Approval of this request could open the door for property owners with undeveloped lots with similar conditions to petition the Board. He also stated that he understood the County had processes in place to mitigate situations like this. Commissioner Maxwell asked Mr. Davenport what process the Board was following in considering this request.

Mr. Davenport stated that this process was approved as part of amendments to the subdivision regulations in 2021, which allowed the Board to consider whether to remove a condition of zoning.

Commissioner Maxwell asked Mr. Davenport what his opinion [of the amendments to the subdivision regulations] at the time was.

Mr. Davenport stated that this was a change included in a 30-40 page red-line document revision and with a document that significant, he did not have the opportunity to pour over every small detail. He noted that as apart of his review this change was not something that stood out to him.

Commissioner Maxwell acknowledged that he did not recall picking up on these changes in 2021 either. He added that in retrospect he was not sure he agreed with the changes. He added that this request was submitted via a process approved by the Board, however he did not like that this could potentially box the Board in if more requests regarding similar lots were submitted. Commissioner Maxwell asked Mr. Davenport his opinion on how to mitigate the situation if it did become an issue.

Mr. Davenport stated that in regard to the request before the Board, "just because someone applied for a change does not mean they get the change". He continued that the Board still had discretion with respect to the factors that are applied, knowing that it was also a rezoning.

Commissioner Maxwell asked if the changes made in 2021 created the opportunity for property owners to subdivide already platted lots.

Mr. Davenport stated no, there was already a process in place that allowed property owners to seek to revise a final plat to increase the density, which would cause a public hearing to occur.

Commissioner Maxwell reiterated his concerns regarding the request. He acknowledged that the law was followed regarding appropriately posting the legal notices advertising the public hearing but felt that perhaps a notice at the site within the cul-de-sac may not have been enough visibility.

Commissioner Oddo stated that his primary concern was not the process itself, but the potential result of the process in this case. He stated that if approved he was concerned about future requests from property owners throughout the county that had previously unbuildable lots that would seek approval of changes to conditions.

Mr. Davenport reiterated that even without the ordinance change, the Board had done this in the past. Property owners have requested rezoning just to remove a condition of the rezoning.

Chairman Hearn asked if this request would change the setbacks on the back property line against the house closest to this property.

Ms. Blaine stated, "no".

Chairman Hearn stated as clarification that the side setback would change from 30-feet to 15-feet. He continued that this request was basically asking for accommodation so that it could be built on.

Chairman Gibbons moved to approve Petition No. 1318-22 Mark Wurster, Owner, and David Barber, Marksmen Construction, Inc., Agent, request to rezone 1.35 acres from R-45 conditional to R-45 conditional, to delete a condition of rezoning to reduce a 30-foot setback, 20 feet of which shall be a natural buffer along the south side property line to 15 feet to install a septic replacement area and to construct a single-family residence closer to the side property line. This request pertains only to Lot 5 of Olde Oak Unit Three Subdivision and is located in Land Lot 203 of the 5th District and fronts on Olde Oak Drive. Commissioner Maxwell seconded.

Mr. Davenport asked the Board for clarification regarding the natural buffer and the setback. For clarity of the request, Mr. Davenport asked Mr. Barber if a 15-foot natural buffer allowed him the relief he needed to place the replacement field in that area.

Mr. Barber stated no it would not. He was under the impression that the natural buffer would be removed completely.

Chairman Gibbons amended his motion to approve Petition No. 1318-22 Mark Wurster, Owner, and David Barber, Marksmen Construction, Inc., Agent, request to rezone 1.35 acres from R-45 conditional to R-45 conditional, to delete a condition of rezoning to reduce a 30-foot setback, 20 feet of which shall be a natural buffer along the south side property line to 15 feet to install a septic replacement area and to construct a single-family residence closer to the side property line. This request pertains only to Lot 5 of Olde Oak Unit Three Subdivision and is located in Land Lot 203 of the 5th District and fronts on Olde Oak Drive, with the removal of all the natural buffer. Commissioner Maxwell amended his seconded. The motion failed 2-3, with Commissioner Maxwell, Commissioner Oddo and Commissioner Rousseau voting in opposition.

**PUBLIC COMMENT:**

**CONSENT AGENDA:**

Commissioner Oddo moved to accept the Consent Agenda as written. Vice Chairman Gibbons seconded. The motion passed 5-0.

- 3. Approval of a request from Fayette County Juvenile Court to accept a grant award from the Criminal Justice Coordinating Council in the amount of \$41,500 for the Delinquency Prevention Grant.**

Commissioner Rousseau commended Juvenile Court for securing this grant, he added that these types of services were vital in helping our youth.

- 4. Approval of the April 14, 2022 Board of Commissioners Meeting Minutes.**

**OLD BUSINESS:**

**NEW BUSINESS:**

- 5. Consideration of staff's request to award Contract #2063-B, Elections Building Remodel, to K-Team Engineering & Construction, Inc. for the not-to-exceed amount of \$961,200.00 and to transfer \$526,062.00 from General Fund Project Contingency to fully fund the contract.**

Elections Direct Brian Hill stated that the Department of Fire & EMS Services relocated Fire Station #4 operations to the new facility on McDonough Road. The old station at 175 Johnson Avenue in Fayetteville was available to be re-purposed. The Board of Elections needed a space that would accommodate its growing operation, and that was more suited for facilitating voter registration, early voting, absentee voting, and other needs. Mr. Hill stated that the old fire station had approximately 5,000 square feet of space, as compared to the Elections Department's current 3,000 square feet. The old fire station would also allow citizens to register, vote, and conduct other elections related business without contending with stairs, a single elevator, limited parking and other issues. Mr. Hill stated that the firm of Jefferson Browne Gresham Architects, Inc. was providing design, bidding & procurement assistance, and similar services. The Building & Grounds Maintenance Department demolished the interior of the old fire station to reduce the overall cost. He added that award of the contract to a general contractor would allow completion of the renovation project.

Commissioner Rousseau moved to approve Contract #2063-B, Elections Building Remodel, to K-Team Engineering & Construction, Inc. for the not-to-exceed amount of \$961,200.00 and to transfer \$526,062.00 from General Fund Project Contingency to fully fund the contract. Commissioner Oddo seconded.

Commissioner Oddo asked Mr. Hill if the new building would adequately take care of the needs of the Election Office.

Mr. Hill stated that they needed more space and that the new building would adequately meet the needs of his office.

Commissioner Rousseau acknowledged that with the rising cost of materials whatever savings that was gained by the Building and Grounds Department performing the demolition, we could potentially be losing if we were not proactively moving this project along in a timely manner.

Mr. Rapson stated that this project was put out for bid in September of 2021 and based on those bids the decision was made to wait, but in doing so the cost increased an additional \$100,000 so the time was now to move the project forward.

Chairman Hearn stated that this building was much needed and that he looked forward to seeing it completed.

Commissioner Rousseau asked Mr. Hill for a brief overview of how prepared his office was for the upcoming election.

Mr. Hill stated that his office was in great shape and well prepared for the upcoming election.

Chairman Hearn stated that he stopped by the Election Office from time to time and he can attest to the fact that there was a flurry of activity going on in that office. He added that he had every confidence in Mr. Hill's leadership and appreciated his efforts.

Commissioner Rousseau moved to approve Contract #2063-B, Elections Building Remodel, to K-Team Engineering & Construction, Inc. for the not-to-exceed amount of \$961,200.00 and to transfer \$526,062.00 from General Fund Project Contingency to fully fund the contract. Commissioner Oddo seconded. The motion passed 5-0.

**6. Consideration of staff's recommendation to appoint J.T. Rabun, P.E. to the Fayette County Transportation Committee to serve a term beginning April 1, 2022 and expiring March 31, 2025.**

Public Works Director Phil Mallon stated that earlier in the year the Board changed the membership of the Transportation Committee creating a new citizen position. He stated that the position was advertised and had received three applicants and the evaluation committee conducted interviews with each of the applicants. Mr. Mallon stated that he was proud of the amount of good and willing people in Fayette County. Mr. Mallon stated that the recommendation was to appoint Mr. J.T. Rabun who spent 30-years with Georgia Department of Transportation, had lived in or around Fayette County and was well versed and knowledgeable in transportation issues.

Chairman Hearn expressed his appreciation to Mr. Rabun for being willing to apply and be considered for the position.

Vice Chairman Gibbons moved to approve to J.T. Rabun, P.E. to the Fayette County Transportation Committee to serve a term beginning April 1, 2022 and expiring March 31, 2025. Commissioner Oddo seconded. The motion passed 5-0.

**7. Consideration of staff's recommendation to appoint the Public Works Director, Water System Director and Transportation Engineer to the Transportation Committee with a term beginning April 1, 2022 and expiring March 31, 2025.**

Mr. Rapson stated that this request was a result of changes in the membership of the Transportation Committee, this request included the title of the position to account for potential personnel changes.

Commissioner Oddo moved to approve to appoint the Public Works Director, Water System Director and Transportation Engineer to the Transportation Committee with a term beginning April 1, 2022 and expiring March 31, 2025. Vice Chairman Gibbons seconded. The motion passed 5-0.

**8. Consideration of a recommendation from the Selection Committee, comprised of Commissioners Edward Gibbons and Charles Rousseau, to reappoint Darryl Hicks to the Fayette County Development Authority to fulfill a four-year term beginning April 10, 2022 and expiring April 9, 2026.**

Vice Chairman Gibbons stated that he and Commissioner Rousseau, as the selection committee, was happy to see Mr. Hicks apply to serve on the Development Authority.

Commissioner Oddo stated that he has known Mr. Hicks for about eight years and felt that the Board was very fortunate to have him serve on the Development Authority. Commissioner Rousseau thanked Mr. Hicks for his service and his wife for her sacrifice in allowing him the time to serve.

Vice Chairman Gibbons moved to approve to reappoint Darryl Hicks to the Fayette County Development Authority to fulfill a four-year term beginning April 10, 2022 and expiring April 9, 2026. Commissioner Rousseau seconded. The motion passed 5-0.

**9. Consideration of a recommendation from the Selection Committee, comprised of Commissioners Edward Gibbons and Charles Rousseau, to reappoint Sameera Tillman to the Fayette County Development Authority to fulfill a four-year term beginning April 10, 2022 and expiring April 9, 2026.**

Vice Chairman Gibbons stated that he and Commissioner Rousseau received some well qualified applicant willing to serve on the Development Authority.

Vice Chairman Gibbons moved to approve to reappoint Sameera Tillman to the Fayette County Development Authority to fulfill a four-year term beginning April 10, 2022 and expiring April 9, 2026. Commissioner Rousseau seconded. The motion passed 5-0.

**10. Consideration of a recommendation from the Selection Committee, comprised of Commissioners Edward Gibbons and Charles Rousseau, to reappoint Luis Matta to the Fayette County Development Authority to fulfill a four-year term beginning April 10, 2022 and expiring April 9, 2026.**

Vice Chairman Gibbons moved to approve to reappoint Luis Matta to the Fayette County Development Authority to fulfill a four-year term beginning April 10, 2022 and expiring April 9, 2026. Commissioner Maxwell seconded. The motion passed 5-0.

**11. Consideration of a recommendation from the Selection Committee, comprised of Commissioners Edward Gibbons and Charles Rousseau, to reappoint Patrick Hinchey to the Fayette County Development Authority to fulfill a four-year term beginning April 10, 2022 and expiring April 9, 2026.**

Vice Chairman Gibbons thanked all the applicant for their willingness to serve.

Vice Chairman Gibbons moved to approve to reappoint Patrick Hinchey to the Fayette County Development Authority to fulfill a four-year term beginning April 10, 2022 and expiring April 9, 2026. Commissioner Rousseau seconded. The motion passed 5-0.

**12. Consideration of a recommendation from the Selection Committee, comprised of Commissioners Edward Gibbons and Eric Maxwell to nominate James Oliver, Brenda Marie Parker and Roger Cochran to the Fayette County Hospital Authority for consideration of appointment to serve a term beginning June 1, 2022 and expires May 31, 2026.**

Vice Chairman Gibbons moved approve to nominate James Oliver, Brenda Marie Parker and Roger Cochran to the Fayette County Hospital Authority for consideration of appointment to serve a term beginning June 1, 2022 and expires May 31, 2026. Commissioner Maxwell seconded. The motion passed 5-0.

**ADMINISTRATOR'S REPORTS:**

Mr. Rapson stated that the Board received copies of the Georgia County Government magazine in their mailboxes where Fayette County had been highlighted in regard to our allocation of the American Rescue Plan funds. He noted that next week May 1<sup>st</sup> -7<sup>th</sup>

was "Drinking Water Week" and the Water System tag line was "It's there when you need it." He added that May 2nd was Water Professionals Appreciation Day.

**ATTORNEY'S REPORTS:** None

**COMMISSIONERS' REPORTS:**

**Vice Chairman Gibbons**

Vice Chairman Gibbons congratulated 911 on their upcoming Association County Commissioners of Georgia (ACCG) recognition.

**Commissioner Oddo**

Commissioner Oddo thanked former commissioner Randy Ognio for initiating the Transportation Committee. He extended his appreciation for his hard work and efforts in establishing that committee.

**Commissioner Rousseau**

Commissioner Rousseau encouraged Fayette County citizens to come out and vote either via early voting or on Election Day May 24<sup>th</sup>.

**EXECUTIVE SESSION:** None

**ADJOURNMENT:**

Commissioner Oddo moved to adjourn the April 26, 2022 Board of Commissioners meeting. Vice Chairman Gibbons seconded the motion. The motion passed 5-0.

The April 26, 2022 Board of Commissioners meeting adjourned at 6:10 p.m.

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Marlena M. Edwards, Chief Deputy County Clerk

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Lee Hearn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 26<sup>th</sup> day of May 2022. Attachments are available upon request at the County Clerk's Office.

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Marlena Edwards, Chief Deputy County Clerk