

## 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

January 26, 2023

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

Vice Chairman Edward Gibbons called the January 26, 2023 meeting to order at 5:00 p.m. A quorum of the Board was present.

### Invocation and Pledge of Allegiance by Vice Chairman Edward Gibbons

Vice Chairman Edward Gibbons offered the Invocation and led the audience in the Pledge of Allegiance.

### Acceptance of Agenda

Commissioner Eric Maxwell moved to accept the agenda. Commissioner Charles Rousseau seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

### PROCLAMATION/RECOGNITION:

#### 1. Recognition of Thomas "Tom" Waller for his years of service on the Fayette County Zoning Board of Appeals.

Planning and Zoning Director Deborah Bell on behalf of the Board and the acknowledged and thanked Thomas "Tom" Waller for his 9-years of dedicated service on the Fayette County Zoning Board of Appeals.

#### 2. Presentation from State Court Judge Jason Thompson of the Accountability Court updates and strategic planning efforts for Fiscal Year 2023 and Fiscal Year 2024.

This item was tabled to the February 9, 2023 Board of Commissioners Meeting.

### PUBLIC HEARING:

Commissioner Maxwell raised a point of order. He stated that although three members of the Board did constitute a quorum, this was the first time in his 11 years serving that there were only three members present at a Board Meeting. Commissioner Maxwell stated that this presented unique circumstances because there were some complex items on the agenda for this meeting. He asked Fayette County Attorney Dennis Davenport if a 2-1 vote would be a passing vote or an approval of an item since only three Commissioners were present for a regular non-public hearing item.

Mr. Davenport stated that a 2-1 vote would not pass or approve an item, because an approving vote required a 3 affirming vote minimum. Based on the current meetings dynamic with only three Board members present the vote would have to be unanimous to pass.

Commissioner Maxwell asked when an agenda item could be brought back before the Board if it failed tonight.

Mr. Davenport stated procedurally one of the Commissioners who voted against the motion could bring back an item at a subsequent meeting. He added that due to the uniqueness of this situation was that although a commissioner could have voted for the motion, the motion would have failed allowing one of the two remaining commissioners to bring the item back at a subsequent meeting if they desired to do so.

Commissioner Maxwell stated that that was his understanding of the procedures. He asked if these procedures were the same for rezoning items.

Mr. Davenport stated that for rezonings a 2-1 was not a denial however, it was not a approval either. Based on the current meetings dynamic with only three Board members present the vote would have to be unanimous or 3-0 to pass or fail. He added that if the Board was not able to get a successful vote of 3-0 and the petitioner had not asked to have the item tabled ahead of time, it would be prudent to have the item tabled until the next meeting where more than three commissioners were present.

Commissioner Maxwell reiterated that in order to approve an item based on the current meetings dynamic with only three Board members present the vote would have to be unanimous or 3-0 to pass. This would require the public hearing to be readvertised, which would add to the delay of the items being brought back before the Board.

County Administrator Steve Rapson stated that if tabled the soonest any of the Public Hearings could be brought back would be February 23, however, the regular agenda items could be brought back as soon as February 9, depending on the pleasure of the Board.

*Planning and Zoning Director Deborah Bell read the Introduction to Public Hearings.*

- 3. Consideration of Petition No. 1326-22; Amina Zakaria, Omar Zakaria, Saed Zakaria & Hassan Zakaria, Owners; Nizam Khan, Applicant, Steven Jones, Attorney, Agent, request to rezone 13.035 acres from O-I to C-H to develop a truck parking facility; property located in Land Lot(s) 233 of the 5th District. This petition was tabled at the December 8, 2022 Board of Commissioners meeting.**

Ms. Bell advised the Board that the applicant requested that the petition be tabled, due to the lack of a full Board.

Vice Chairman Gibbons moved to defer this item to the February 23, 2023 Board of Commissioners Meeting. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Charles Oddo were absent.

- 4. Consideration of Petition No. 1328-22; Golden Development Company, LLC, Owners; CK Spacemax, LLC, Applicant; Ellen W. Smith, Attorney, Agent, request to rezone 9.022 acres from A-R to C-H to develop a self-storage facility; property located in Land Lot(s) 137 of the 5th District and fronts on Highway 54 East. This petition was tabled at the December 8, 2022 Board of Commissioners meeting.**

Ms. Bell advised the Board that the applicant requested that the petition be tabled, due to the lack of a full Board.

Vice Chairman Gibbons moved to table this item to the February 23, 2023 Board of Commissioners Meeting. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Charles Oddo were absent.

#### **PUBLIC COMMENT:**

The following citizens gave comments in favor of option #1- the renovation of East Fayette Elementary to provide for a new Department of Public Health building: Jack Bernard, Dawn Oparah, Valerie Smith, Ted Toles, Lucy Bow-Logan, Julie King, Holly

Line, Chandra Wright, Hasina Grimball, Tara Hannon, Carol Jean Schrim, Vivian Arnold. Comments reiterated two major concerns: the need for broader and more accessible mental health services in Fayette County and continuity of care; option 1 would help streamline health care by housing Public Health, mental health, and WIC services. Commenters also highlighted their hope that the Board wanted to aid the greatest number of people in and around Fayette County.

Dottie Humphries expressed her concerns regarding school taxes being assessed on her mobile home property. Mrs. Humphries stated that she was a senior citizen and was under the impression that she would not have to pay school taxes as a part of her property tax and wanted to know why this was the case.

Mr. Rapson advised Mrs. Humphries that he would speak with her after the meeting to discuss her concerns.

The following citizens relayed their opposition to Alternate1 regarding State Route R 279 Realignment Project and the proposed truck parking item near Butler Road: Kindel Brodigan and Mark Alexander. Both citizens expressed their frustration and stress regarding the possibility of their homes being taken or the decrease in the quality of life if the truck parking proposal was allowed. Both comments mentioned environmental and noise concerns. Comments were made regarding property owners being "made whole" economically and not just based on fair market values, if the decision was made to take their property.

Gary Austin expressed his support to Alternate 2 regarding State Route 279 Realignment Project. He stated that this option would have the least impact on property owners in the area and was not as costly to the County as option 1.

The following citizens expressed their support for Alternate1 regarding State Route 279 Realignment Project. Keith Larson, Randy Ogino, and Marty Sas. Comments included the need and obligation to protect property owner and property developer rights, the fact that this option would strategically and futuristically improve congestion and promote safety in the area and the greater effect of this realignment would be more beneficial to the County. Comments also reminded the Board that how they voted on this item could affect interest in SPLOST initiatives in the future.

#### **CONSENT AGENDA:**

Commissioner Maxwell moved to approve the Consent Agenda as written. Commissioner Rousseau seconded. The motion passed 3-0. Chairman Hearn and Commissioner Charles Oddo were absent.

#### **5. Approval of the January 12, 2023 Board of Commissioners Meeting Minutes.**

#### **OLD BUSINESS:**

#### **NEW BUSINESS:**

#### **6. Request to approve the Planning Commission Selection Committee's recommendation to reappoint John Culbreth to the Planning Commission for a term beginning January 1, 2023 and ending December 31, 2025.**

Commissioner Rousseau moved to approve the Planning Commission Selection Committee's recommendation to reappoint John Culbreth to the Planning Commission for a term beginning January 1, 2023 and ending December 31, 2025. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

#### **7. Request to approve the Planning Commission Selection Committee's recommendation to appoint John J. Kruzan to the Planning Commission for a term beginning January 1, 2023 and ending December 31, 2025.**

Commissioner Maxwell moved to approve Planning Commission Selection Committee's recommendation to appoint John J. Kruzan to the Planning Commission for a term beginning January 1, 2023 and ending December 31, 2025. Commissioner Rousseau seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**8. Request to approve the Zoning Board of Appeals Selection Committee's recommendation to reappoint John Tate to the Zoning Board of Appeals for a term beginning January 1, 2023 and ending December 31, 2025.**

Commissioner Rousseau moved to approve Zoning Board of Appeals Selection Committee's recommendation to reappoint John Tate to the Zoning Board of Appeals for a term beginning January 1, 2023 and ending December 31, 2025. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**9. Request to approve the Zoning Board of Appeals Selection Committee's recommendation to appoint Brian Haren to the Zoning Board of Appeals for a term beginning January 1, 2023 and ending December 31, 2025.**

Commissioner Maxwell moved to approve the the Zoning Board of Appeals Selection Committee's recommendation to appoint Brian Haren to the Zoning Board of Appeals for a term beginning January 1, 2023 and ending December 31, 2025. Commissioner Rousseau seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**10. Request to approve Ordinance 2023-01, to amend Chapter 6 - Animals, Article II. - Keeping Animals; Animal Shelter, Section 6-23. - Restraint of animals - While on property, to include tethering restriction.**

Animal Control Director Jerry Collins stated that this item was seeking Board approval to approve Ordinance 2023-01, to amend Chapter 6 - Animals, Article II. - Keeping Animals; Animal Shelter, Section 6-23. - Restraint of animals - While on property, to include tethering restriction. Mr. Collins stated that back in August of 2022 the City of Peachtree City Council contacted him expressing their interest in enacting a tethering ordinance. He noted that he met with the Council a couple of times as they moved quickly in comprising the ordinance and approving it in October 2022. Mr. Collins stated that because his office was responsible with enforcement of all the ordinances of the County and municipalities, he felt it would help with consistency for the County to also have a tethering ordinance.

Vice Chairman Gibbons moved to approve Ordinance 2023-01, to amend Chapter 6 - Animals, Article II. - Keeping Animals; Animal Shelter, Section 6-23. - Restraint of animals - While on property, to include tethering restriction. Commissioner Maxwell seconded.

Commissioner Maxwell asked if tethering was a problem in the County.

Mr. Collins stated that he would not say the County had a major problem with tethering, but he did admit his office had received numerous calls regarding tethered animals, specifically dogs, being left tethered all day and night. He continued stating that the County did not have an ordinance related to tethering animals and could only utilize an animal cruelty charge to irresponsible pet owners. Mr. Collins stated that his vision for this ordinance was to begin with an educational position. He stated that he did not foresee issuing any citation in the next few months unless it was an egregious situation with a repeat offender.

Commissioner Maxwell asked if there had been any extreme issues of tethered animals, he recalled being shown horrendous pictures of abused dogs who had been tethered so long the tether had torn into their skin.

Mr. Collins stated that occasionally there have been instances of extreme abuse. He reiterated that this was why he felt this ordinance would be beneficial, because it would be led by an educational outreach initially and if needed enforcement would be initiated.

Commissioner Maxwell stated that his understanding of the ordinance was that a tethered animal would be harnessed to a cabling system and would have access to food, water, and shelter/shade. He noted that this was different to the tethering ordinance that was presented years ago. Commissioner Maxwell stated that his goal was to ensure animals were well cared for and if anyone witnessed an animal being tethered irresponsibly and neglected or abused the Board

was here to aid. Commissioner Maxwell urged consistency amongst the County and municipalities but also expressed his desire for the County to take lead in creating their own ordinances.

Mr. Collins stated that in the beginning he was notified by the City of Peachtree City that they were developing this ordinance and he was apart of the committee and provided input and wording that was used to draft the ordinance.

Mr. Rapson stated that part of the reason the ordinance had advance so quickly was because the County was taking the lead via Mr. Collins. He added that this ordinance addressed all the concerns regarding tethering and would make it consistent in Fayette County and Peachtree City with the goal to take it to the remaining municipalities creating a consistent ordinance county-wide.

Commissioner Rousseau stated that in his opinion this was a missed opportunity. He felt that the ordinance should have been drafted with input and language collectively gathered between the County and all the municipalities so that it would be consistent from its inception. Commissioner Rousseau suggested reaching out to the remaining jurisdiction first then bring back an agreed upon ordinance.

Mr. Collins advised the Board that he had reached out to some of the remaining jurisdictions regarding the tethering ordinance.

Commissioner Rousseau stated that it was still a missed opportunity and suggested having it sent back for discussion with the remaining municipalities to create one uniform ordinance.

Vice Chairman withdrew his motion. Commissioner Maxwell withdrew his second.

Mr. Rapson stated that staff received the Boards direction and once prepared they would bring the item back.

#### **11. Discussion and overview of the proposed upgrade to the hardware and software of the Supervisory Control and Data Acquisition (SCADA) System for the Water System's Water Treatment Plants.**

Susan Lee Operation and Production Manager of the Fayette County Water System provided a brief overview of the Supervisory Control and Data Acquisition (SCADA) System for the Water System's Water Treatment Plants. She stated that the Supervisory Control and Data Acquisition (SCADA) System was a system of hardware and software components that were used to monitor and control equipment and system status in the Water System. Ms. Lee stated that county staff had worked with Arcadis to identify and prioritize immediate improvement needs in the system. The two following items were the most immediate improvement needs:

1: SCADA Computer and Software Upgrades - monitors and controls the raw and finished water pumps and the distribution system pressure, tank levels, etc. She noted that this update would include: two new SCADA computers, specialized software with customization, upgraded human machine interface, full design and integration, and an upgrade from Windows 7 OS to Windows 10 OS, with a cost of \$60,000.

2: Crosstown WTP Filter Magic Control Room SCADA Computer and Software Upgrades- monitors and controls filter status, backwash sequence and chemical feed systems. This update would also include two new SCADA computers, specialized software with customization, upgraded human machine interface, full design and integration, and an upgrade from Windows 7 OS to Windows 10 OS, with a cost of \$140,000.

The two proceeding items request the approval of the outlined improvements.

Mr. Rapson stated in reviewing the SCADA PowerPoint that these improvements were a part of a rolling 5-year plan for the Water System. Mr. Rapson advised the Board that these items were being presented because cumulatively over the next 5-years they would be a \$1M-2M project. This overview was to provide the Board a big picture view of a multi-million-dollar project. Mr. Rapson stated that his goal was to garner Board interest and direction with these smaller improvements which would determine if the Board had interest improving the entire SCADA system over the next 5 years.

No vote was taken.

**12. Request to award Contract #2216-S to J. K. Duren to upgrade the hardware and software of the SCADA (Supervisory Control and Data Acquisition) System in the amount of \$60,400.**

Commissioner Maxwell moved to approve to award Contract #2216-S to J. K. Duren to upgrade the hardware and software of the SCADA (Supervisory Control and Data Acquisition) System in the amount of \$60,400. Commissioner Rousseau seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**13. Request to award Contract #2206-S to ITAC/Filter Magic to upgrade the hardware and software of the SCADA (Supervisory Control and Data Acquisition) System in the amount of \$140,000.**

Vice Chairman Gibbons moved to approve to award Contract #2206-S to ITAC/Filter Magic to upgrade the hardware and software of the SCADA (Supervisory Control and Data Acquisition) System in the amount of \$140,000. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**14. Request to renew the annual agreement with the U.S. Department of the Interior Geological Survey (USGS) for surface water monitoring in the amount of \$212,600.**

Water System Director Vanessa Tigert stated that this item was a request to renew the annual agreement with the U.S. Department of the Interior Geological Survey (USGS) for surface water monitoring, which was a requirement for environmental permitting that the stream gauges on the reservoirs be maintained.

Commissioner Maxwell moved to approve to renew the annual agreement with the U.S. Department of the Interior Geological Survey (USGS) for surface water monitoring in the amount of \$212,600. Commissioner Rousseau seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**15. Request to renew Contract #1477-S, Renewal 2 for Carbyne, Inc. in the amount of \$285,500 to provide maintenance and support for continued operation of the 911 phone system.**

Mr. Rapson stated that this item was a renewal approving the Carbyne system and was budgeted, but just over the \$200K threshold.

Mr. Rapson noted that the vendor evaluation had been omitted from the agenda package but was provided to the Board on the dais for review.

Vice Chairman Gibbons moved to approve to renew Contract #1477-S, Renewal 2 for Carbyne, Inc. in the amount of \$285,500 to provide maintenance and support for continued operation of the 911 phone system. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**16. Request to approve Alternative 1 (ALT 1) or Alternative 2 (ALT 2) as the preferred realignment for the SR 279 Realignment Project - GDOT PI 0017813 (17TAD).**

Public Works Director Phil Mallon provided a brief overview of the item. He stated that this item did have two alternatives. Alternative 1 was the option that was developed in the 2019 corridor study, presented not only to the Board but also to the Atlanta Regional Commission and was the option that seed money had been provided for. The goal of Alternative 1 was to build a new road from Highway 279 along Butler Road connecting to the Corinth Road intersection. Mr. Mallon added that this option had numerous safety improvements. Mr. Mallon stated that Alternate 2 would provide road improvements to the Corinth Road curve and access to Carnes Road along with bike path improvements, R-cut additions, and intersectional and signal improvements; there would be no taking of homes with this option. With this option the property impact would dwindle from about 80 to 20 parcels, specifically related to right-of-way. Mr. Mallon stated that Alternative 1 would almost certainly take at least 5 homes. Mr. Mallon stated that the cost estimate for each project continued to increase. He noted that Alternative 1 would be at least 50% more expensive than Alternative 2 was almost double the cost. Mr. Mallon stated that Alternative 1 was fast approaching the County's ceiling set aside for local match.

Vice Chairman Gibbons asked what the current local match was.

Mr. Mallon stated the local match was current 80% to 20%.

Vice Chairman Gibbons asked what was cost of each project.

Mr. Mallon stated that Alternative 1 was near \$20M and Alternative 2 was between \$8-\$9M

Commissioner Maxwell moved to table this item to the February 23, 2023 Board of Commissioners Meeting. The motion passed 3-0.

**17. Request to approve a Supplemental Agreement with Georgia Department of Transportation (GDOT) to accept an additional \$587,976.80 in federal aid for the SR 279 Realignment Project - GDOT PI 0017813 (17TAD), increasing the total funding for the design (PE) phase to \$1,000,000.**

Commissioner Rousseau moved to approve a Supplemental Agreement with Georgia Department of Transportation (GDOT) to accept an additional \$587,976.80 in federal aid for the SR 279 Realignment Project - GDOT PI 0017813 (17TAD), increasing the total funding for the design (PE) phase to \$1,000,000. Vice Chairman Gibbons seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**18. Request to approve Option #1; the renovation of East Fayette Elementary to provide for a new Department of Public Health building or Option #2; the reallocation of American Rescue Plan Act (ARPA) funds to Fire/EMS Training Facility, Sheriff's Tactical Training Course and \$1.5M towards renovating the existing Department of Public Health at Stonewall.**

Mr. Rapson stated that per Board direction staff evaluated alternate options for a new Department of Public Health building as opposed to the now \$25M-28M project. He stated that he met with the development consultants to try and work out or negotiate a lower cost with no success as well as reached out to the Governor's Office for additional funds with no success. He stated that he met with the Fayette County School Board and evaluated two schools the East Fayette Elementary and the Fayette Intermediate School. In addition, the Board also directed staff to find an additional option to use the American Rescue Plan funds if the Health Department option fell through. Mr. Rapson provided the Board with an overview of all these options and data analysis and cost associated with each.

Vice Chairman Gibbons moved to table this item to the February 9, 2023 Board of Commissioners Meeting. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**19. Consideration of the "Master Terms and Conditions of Engagement", from law firm Freeman, Mathis & Gary, LLP, to set forth a clear, mutual understanding of the services provided and the scope, terms and conditions under which those services are to be performed.**

Mr. Davenport stated that this request was from one of the County's insurance firms that needed an executed "Master Terms and Conditions of Engagement" with the County.

Vice Chairman Gibbons moved to approve the "Master Terms and Conditions of Engagement", from law firm Freeman, Mathis & Gary, LLP, to set forth a clear, mutual understanding of the services provided and the scope, terms and conditions under which those services are to be performed. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**ADMINISTRATOR'S REPORTS:**

**A: Contract #1867-P: Water System Engineer of Record; Task Order #22-12: South Fayette Clearwell Leak Investigation & Roof Assessment; Change Order #1: Clearwell Inspection & Repair**

**ATTORNEY'S REPORTS:**

**Notice of Executive Session:** County Attorney Dennis Davenport stated that there were two items for Executive Session. One item involving pending litigation and the review of the Executive Session minutes for January 12, 2023.

**COMMISSIONERS' REPORTS:**

Vice Chairman Gibbons expressed his appreciation to the school Board for their supportiveness and willingness to assist the County and providing us the property if chosen at a reasonable price.

**EXECUTIVE SESSION:**

**One item involving pending litigation and the review of the Executive Session minutes for January 12, 2023.**

Commissioner Rousseau moved to go into Executive Session. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

The Board recessed into Executive Session at 7:09 p.m. and returned to Official Session at 7:14 p.m.

**Return to Official Session and Approval to Sign the Executive Session Affidavit:** Vice Chairman Gibbons moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

Mr. Davenport advised the Board of the Firefighter/EMT Johnson Workers Compensation Settlement. He stated that the settlement was in the amount of \$95,000. The agreement included separation from employment documents, additional releases, and confidentiality terms. Mr. Davenport asked for the Board's favorable approval.

Vice Chairman Gibbons approved the proposed settlement agreement. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

**Approval of the January 12, 2023 Executive Session Minutes:** Vice Chairman Gibbons moved to approve the January 13, 2023 Executive Session Minutes. Commissioner Maxwell seconded the motion. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.



**ADJOURNMENT:**

Vice Chairman Gibbons moved to adjourn the January 26, 2023 Board of Commissioners meeting. Commissioner Maxwell seconded. The motion passed 3-0. Chairman Hearn and Commissioner Oddo were absent.

The January 26, 2023 Board of Commissioners meeting adjourned at 7:15 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 9<sup>th</sup> day of February 2023. Attachments are available upon request at the County Clerk's Office.

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Marlena Edwards, Chief Deputy County Clerk