

## 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 25, 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

Chairman Lee Hearn called the April 25, 2023 Board of Commissioners meeting to order at 5:00 p.m. A quorum of the Board was present. Vice Chairman Edward Gibbons was absent.

### Invocation and Pledge of Allegiance by Commissioner Eric Maxwell

Chairman Lee Hearn offered the invocation and led the audience in the Pledge of Allegiance.

### Acceptance of Agenda

Commissioner Oddo moved to accept the agenda as written, with the removal of Item #1. Commissioner Rousseau seconded. The motion passed 4-0. Vice Chairman Edward Gibbons was absent.

### PROCLAMATION/RECOGNITION:

1. **Recognition of Lieutenant Steve Sullivan for receiving the American Legion, Post 105, Public Safety Recognition Award.**

This item was removed from the agenda.

2. **Recognition from the local Veterans of Foreign Wars (VFW) of the Fayette County Fire & Emergency Services 2023 Firefighter of the Year, FAO/Paramedic Daniel Young, and Fayette County 911 2023 Communications Officer of the Year, Amber Morris.**

Larry Dell, with the local chapter of the Veterans of Foreign Wars (VFW) made a presentation to the Fire & Emergency Services 2023 Firefighter of the Year, FAO/Paramedic Daniel Young, and Fayette County 911 2023 Communications Officer of the Year, Amber Morris. The local VFW submitted FAO/Paramedic Young and Communications Officer Morris to the State-level public safety employee of the year based on nominations from their peers. FAO Young's and Communications Officer Morris' dedication and service to this community are paramount to the successful operations of emergency response to the citizens of Fayette County.

### PUBLIC HEARING:

### PUBLIC COMMENT:

The following citizens made comments in reference to the proposed Rick Ross car show. Dorothy Herring, Larry Youngering, Michael Copeland, Gwen McDaniel, Isaac Logan, Alpha Bryan, and Carlton Morse.

Residents expressed that though they appreciated the engagement and discussion from the County and representatives from Mr. Ross' team, they were doubtful in the success of the show. They still had concerns regarding traffic control/safety, accessibility for emergency transportation, and felt that this event would diminish the quality of life for the residents in the area. Residents reiterated their request for the car show to be held at a different location more suitable for an event of this magnitude. Residents presented a petition signed by fellow residents of the surrounding subdivisions requesting Board support and assistance resolving these concerns related to the car show and suggested denying the permit request or processing an injunction of the event.

Commissioner Maxwell stated that at the previous meetings during discussion of the proposed Rick Ross car show he mentioned that he would motion to deny the car show permit application, if he felt it were permissible and that a lawsuit could be won if adjudicated through the courts. Commissioner Maxwell stated that he was aware that County Administration and Rick Ross' team had been working in coordination as the car show permit application was being reviewed. Similar to other permit applications, once an applicant met outlined requirements the application was typically approved without Board involvement as was done in the past with this applicant. However, he did not feel that the permitting process was the correct way to handle this application and felt that the Board should go in a different direction and file a temporary restraining order (TRO) or injunction of the car show. Commissioner Maxwell briefly explained the process of filing a TRO noting that once filed a hearing was held relatively quickly, typically within days. He continued that this filing would be presented before a judge for a decision to be made as to whether the car show was a proper use of the proposed property. Commissioner Maxwell stated that if a motion was made to file an injunction, he assumed he would get a second.

Commissioner Rousseau stated that in addition to requesting input from the County Attorney, he would second the motion to file an injunction. He also noted that an email had been sent out questioning if the subject property's Agricultural and Residential (AR) zoning allowed for this type of event and he had not yet seen a response to that inquiry.

County Attorney Dennis Davenport stated that he typically did not respond to emails that involve potential litigation.

Commissioner Rousseau continued that barring that concern, it was his understanding that staff was in the process of developing a more robust ordinance for events of this level and magnitude.

County Administrator Steve Rapson stated yes, staff was working on a refined ordinance, which would go through the normal process of being reviewed and vetted through the Planning Commission, then presented before the Board for review and approval.

Commissioner Rousseau stated that he was inclined to consider filing the TRO in lieu of the County being able to address something of this magnitude, based upon this event being considered a public nuisance. This event was detrimental to the free movement of the residence of the community. Commissioner Rousseau stated that in review of some of the proposed safety measures being discussed (e.g., imposing a subdivision pass requirement for residents to present to gain access to their own property), he was very concerned. He also expressed his concern regarding traffic along the two State Highways in that area: State Route 138 and State Route 279. Commissioner Rousseau stated that he felt that filing the TRO for this event would allow county staff the appropriate amount of time to develop an ordinance that properly addressed events and activities of this size and magnitude, not just this proposed event, but for future events that may be applied for. He asked if there was a timeline for when the ordinance revision would be completed.

Mr. Rapson stated that for this ordinance to be properly comprised and vetted with adequate public comment/input, it would be about 2 to 3 months if it was placed on a fast track, and about 5-6 months if vetted through the normal process.

Commissioner Rousseau stated given that potential timeline, with this proposed event less than two months away, there was not enough time to consider this event application appropriately and fairly. Commissioner Rousseau asked for the County Attorney's opinion regarding the County filing a TRO but stated that it was probably rare for a governmental entity to issue a TRO.

Mr. Davenport stated that this question placed him in a precarious position, because it would cause him to give an opinion that typically was not discussed in a public forum and responding to this question could hinder his strategic planning in case of litigation. Mr. Davenport advise that he could provide a full and robust opinion, with respect to litigation, but typically those opinions are discussed in confidence with the Board. Mr. Davenport advised that he did have items for discussion in executive session.

Commissioner Rousseau motioned to move this discussion regarding filing a TRO to executive session.

Commissioner Maxwell briefly outlined the TRO processes.

Commissioner Maxwell motioned to direct the County Attorney to file an injunction/TRO to prevent the Rick Ross car show, based on any legal stance including it being a public nuisance. Commissioner Rousseau seconded.

Chairman Hearn stated that he would have liked to hear more from the County Attorney regarding this topic in executive session prior to voting on this.

Commissioner Maxwell motioned to direct the County Attorney to file an injunction/TRO to prevent the Rick Ross car show, based on any legal stance including it being a public nuisance. Commissioner Rousseau seconded. The motion failed 2-2, with Chairman Hearn and Commissioner Oddo voting in opposition. Vice Chairman Gibbons was absent.

### **CONSENT AGENDA:**

Commissioner Oddo moved to approve the Consent Agenda. Chairman Hearn seconded. The motion passed 4-0. Vice Chairman Edward Gibbons was absent.

3. **Request to acquire all fee simple right-of-way, easements, and appraisals for the proposed 2017 SPLOST; Stormwater Category II, Tier II Project 170 Angela Drive Culvert Replacement (19SBS).**
4. **Request to acquire all fee simple right-of-way, easements, and appraisals for the proposed 2017 SPLOST; Stormwater Category II, Tier II Project 110 Branchwood Court Culvert Replacement (19SBR).**
5. **Request to acquire all fee simple right-of-way, easements, and appraisals for the proposed 2017 SPLOST; Stormwater Category II, Tier II Project 165 North Bend Court Culvert Replacement (21SAL).**
6. **Request to acquire all fee simple right-of-way, easements, and appraisals for the proposed 2017 SPLOST; Stormwater Category II, Tier II Project 220 Old Ivy Culvert Replacement (20SAE).**
7. **Request to acquire all fee simple right-of-way, easements, and appraisals for the proposed 2017 SPLOST; Stormwater Category II, Tier II Project 125 Ridge Brook Court Culvert Replacement (21SAM).**
8. **Approval of the April 13, 2023 Board of Commissioners Meeting Minutes.**

### **OLD BUSINESS:** **NEW BUSINESS:**

9. **Request to ratify an appointment by Town of Tyrone of Gail Joiner to the Fayette County Library Board for a four-year term beginning January 1, 2023 and expiring December 31, 2026.**

Commissioner Oddo moved to approve to ratify an appointment by Town of Tyrone of Gail Joiner to the Fayette County Library Board for a four-year term beginning January 1, 2023 and expiring December 31, 2026. Commissioner Maxwell seconded. Vice Chairman Edward Gibbons was absent.

**10. Request to approve a recommendation from the Selection Committee comprised of Fayette County Staff, to appoint Dr. William Yarde to the Fayette County Water Committee for an unexpired term beginning immediately and expiring December 31, 2024.**

Commissioner Oddo moved to approve a recommendation from the Selection Committee comprised of Fayette County Staff, to appoint Dr. William Yarde to the Fayette County Water Committee for an unexpired term beginning immediately and expiring December 31, 2024. Commissioner Maxwell seconded. The motion passed 4-0. Vice Chairman Edward Gibbons was absent.

Dr. William Yarde thanked the Board for their support he briefly outlined his experience and expressed his eagerness to serve this community in this new position.

**11. Request to award a bid for the purchase of the sewer easement and temporary construction easement over Tax Parcel ID 0726 017, (easement location known as Fayette County Fire Station #3) to 74 South, LLC.**

Mr. Davenport stated that he previously approached the Board advising that there was a development in Tyrone across the street from the railroad tracks behind Fire Station #3. He stated that the development was wanting to connect to the Tyrone sewer system. In order to do this, they needed to cross over County property on the south side of the Fire Station. He advised the Board that to facilitate the transfer of property rights a certain process had to be followed. A request for bids on a sewer easement and temporary construction easement, for sale by Fayette, was released. Mr. Davenport stated that there was one response to this bid, for \$17,330, which was the fair market value of the permanent easement and temporary construction easement. He recommended the approval to award this bid to 74 South, LLC.

Commissioner Oddo moved to approve to award a bid for the purchase of the sewer easement and temporary construction easement over Tax Parcel ID 0726 017, (easement location known as Fayette County Fire Station #3) to 74 South, LLC. Commissioner Maxwell seconded. The motion passed 4-0. Vice Chairman Gibbons was absent.

**12. Request to approve an agreement for use of Fayetteville First Baptist Church Parking for overflow during county elections (201AE - Elections - old Fire Station #4).**

Public Works Director Phil Mallon advised the Board that in anticipation of the average to high turnouts for county elections, the county had been discussions with Fayetteville First Baptist Church to use the church parking lot south of Johnson Avenue, adjacent to the new Election's facility. He continued that in return for use, the county agreed to; (a) provide improvements to the easternmost Church property by providing a permanent driveway from the southeastern corner of the aforementioned Church property to Johnson Avenue. (b) walkway constructed by the County near the newly constructed driveway to the Church property, across Johnson Avenue and terminating at the building on Elections' property. Mr. Mallon stated that Fayette County would be responsible for maintaining the sidewalk, once on County property. However, all future maintenance of the parking lot, after the driveway construction was complete, would be with the church.

Commissioner Rousseau moved to approve an agreement for use of Fayetteville First Baptist Church Parking for overflow during county elections (201AE - Elections - old Fire Station #4). Commissioner Oddo seconded. The motion passed 4-0. Vice Chairman Gibbons was absent.

**ADMINISTRATOR’S REPORTS:**

**A: Contract #2018-P: Public Works Engineer of Record; Task Order 11: Tyrone Road at Flat Creek Trail Intersection Improvements**

**ATTORNEY’S REPORTS:**

**Notice of Executive Session:** County Attorney Dennis Davenport stated that there were four items for Executive Session. Three items involving threatened litigation and one item of real estate acquisition.

**COMMISSIONERS’ REPORTS:**

Commissioner Rousseau reminded residents that there was an active special election for District 68 in the State House, due to the recent passing of Representative Tish Naghise. He encouraged all in that district to take advantage of their right to vote.

**EXECUTIVE SESSION:**

**Three items involving threatened litigation and one item of real estate acquisition.** Commissioner Oddo moved to go into Executive Session. Commissioner Rousseau seconded. The motion passed 4-0. Vice Chairman Gibbons was absent.

The Board recessed into Executive Session at 5:49 p.m. and returned to Official Session at 7:05 p.m.

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

**ADJOURNMENT:**

Commissioner Oddo moved to adjourn the April 25, 2023 Board of Commissioners meeting. Commissioner Rousseau seconded. The motion passed 4-0. Vice Chairman Gibbons was absent.

The April 25, 2023 Board of Commissioners meeting adjourned at 7:06 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 11<sup>th</sup> day of May 2023. Attachments are available upon request at the County Clerk’s Office.

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Marlena Edwards, Chief Deputy County Clerk