

BOARD OF ELECTIONS

Addison Lester, Chairman
Darryl Hicks
Aaron Wright

FAYETTE COUNTY, GEORGIA

Floyd L Jones, Director
April Crosby, Elections Supervisor
Brian Hill, County Registrar



140 Stonewall Avenue West
Elections Office, Suite 208
Fayetteville, GA 30214

AGENDA

December 10, 2018
4:00 p.m.

Welcome to the meeting of your Fayette County Board of Elections. Your participation is appreciated. All regularly scheduled Board meetings are open to the public and are generally held on the 4th Tuesday of each month at 5:00 p.m.

Chairman to Call the Meeting to Order

Chairman Lester called the December 10, 2018 Board of Elections meeting to order at 4:00 p.m. and he welcomed all in attendance.

Approval of the Agenda

Mr. Hicks moved to approve the Agenda as published. Mr. Wright seconded the motion. The motion passed 3-0.

PUBLIC COMMENTS:

Alberta Lucas: Ms. Lucas stated she was aware of a number of elderly and disabled voters who complained about coming to the second floor to vote since they were accustomed to voting on the first floor. Ms. Lucas asked if anything had been settled with regard to volunteers in the Elections Office. Director Jones stated that matter had been put to the side for the time being in order to work on and to move past the Elections. Ms. Lucas asked how a person can register to vote at the Department of Motor Vehicles (DMV) and if the county had oversight of that process. County Registrar Brian Hill replied that a person who is obtaining a driver's license can request to be registered to vote at the same time. If that driver makes that request, then notification is sent over to the respective County Elections Office for the registrars to evaluate and register as able. He explained that the partnership is based on state law and the county has no oversight of the DMV.

Tish Naghise: Ms. Naghise asked how the Absentee by Mail ballots were mailed out for the December 4, 2018 Runoff Election. County Registrar Brian Hill stated that the County did not get its ballots until Tuesday, November 20 and therefore had to send ballots out immediately to the "Rollover" voters that include military, disabled, and elderly voters on Wednesday, November 21. He said the ballots were going overseas and they had to be mailed out. Mr. Hill stated that the county mailed approximately 752 Absentee by Mail ballots. Other ballots that were not part of the rollover ballots could not be mailed out Tuesday afternoon. He said approximately 400 letters were going out a day. Ms. Naghise asked how many ballots were dated on December 4, 2018 and were received by December 7, 2018. Mr. Hill replied 283 came after December 4, 2018 that counted, and he said that number included military (UOCAVA) ballots. Ms. Naghise asked if there is an accounting of how many ballots were received after December 4. Mr. Hill replied there are 283 that were received after December 4. Ms. Naghise asked if there were any numbers regarding how many ballots were rejected. Mr. Hill replied he can provide the number but he did not have them. Mr. Hicks asked how long records were kept for rejected ballots. Mr. Hill stated that the records are kept for two years. Ms. Naghise asked if consideration would be given for future elections. Mr. Jones replied that consideration would be given for future elections and, furthermore, how the future elections would be planned mattered a great deal on the upcoming legislation with the potential of new machines, paper ballots, and updated procedures.

Leonard Presberg: Mr. Presberg said he has tracking information for a ballot that the United States Postal Service said a ballot was delivered on December 6, 2018. County Registrar Brian Hill replied that he had received the ballot but it was postdated as December 7, 2018 and received by the Elections Office on December 10. Mr. Presberg stated that his son's ballot, according to the United States Postal Service, was postmarked on December 4 and was delivered on December 6. Mr. Hill stated that the ballot was postmarked for a different day and received on December 10. Mr. Presberg stated this would be his last meeting as Chairman of the Fayette County Democratic Committee and he thanked staff for being super responsive and very helpful. He said there are disagreements over process and learning about how things work, but he said everyone has been great to work with. He thanked the whole Board, Director Jones, and the staff for their work. Mr. Hicks stated that Mr. Presberg has been very publically about his appreciation for the Elections Department.

Peggy Hamm: Ms. Hamm stated she was trained and served as a Poll Watcher during the November 2018 election at the Rising Starr Precinct. She said she was treated very rudely by Mr. Truman Simons at the polling location. Ms. Hamm asked if Mr. Simons has the authority to direct her. Ms. Hamm stated that the poll manager and staff were unhelpful to her and Mr. Simons was rude. She said that was the temper of the day and that it went very poorly for her. Ms. Hamm asked how made the decision about voting machines since she did not believe enough machines were placed at the polling locations. Director Jones stated he was the one who made the decision on the number of machines and he gave a reason on how the decision was made. Mr. Hicks thanked Ms. Hamm for providing her feedback. Mr. Wright added that elections are a very busy and stressful time and there needs to be mercy extended to everyone involved. Chairman Lester thanked Ms. Hamm for her information.

CERTIFICATION:

1. Certification of the December 4, 2018 General Runoff Election.

County Registrar Brian Hill presented the rejected ballots first. Mr. Hill recommended rejecting Doris W. Sharp's provisional ballot since she is registered in Fulton County. He also recommended Janita Law's provisional ballot also be rejected since she too is a registered voter in Fulton County.

Mr. Hill recommended that the following provisional ballots be counted since the voters are registered Fayette County residents who voted out of precinct: Matthew Robert Almond, Bridgette J. Phillips, Charlotte W. Seldon; Robert G. James, Cynthia Abrams, David Charles Schlau, Jr.; Shannon Woolf, Jill F. Pattiz, Regito Barr and Stephanie Cunningham.

Mr. Hill recommended that the following ballot be counted since the voter is registered in Fayette County but was not on the Elector's List: Daniel L. Bailey.

Chairman Lester moved to approve staff's recommendations for approving and rejecting provisional ballots. Mr. Wright seconded the motion. The motion passed 3-0.

Mr. Presberg questioned whether his son's ballot should be counted. County Registrar Brian Hill stated that Mr. Presberg's son's ballot was mailed out after the Rollover ballots were mailed.

Mr. Presberg stated that the ballot was put in a priority envelope and mailed to the county. He was concerned how it arrived outside of the priority envelope and was stamped on December 7, 2018. Discussion followed on how the ballot would be stamped if it was in a priority envelope. Mr. Presberg stated that something was wrong since even the ballot did not have a stamp on it. Mr. Hill stated that Mr. Presberg's ballot was received by the Elections Office on Monday, December 10, 2018.

Mr. Hicks asked County Attorney Dennis Davenport why the ballot could not be counted given there is discrepancy involved. Mr. Davenport replied that the ballot had to be postmarked by December 4 and in the possession of the county by December 7. He stated that the person who checks the mail will swear on an affidavit that all ballots were delivered on Friday, December 7 and that the subject ballot was not received by December 7. Mr. Presberg stated there is a problem and a ballot is not getting counted that should be counted.

Mr. Wright stated that special exceptions cannot be made given the information that the county has. Mr. Hicks stated a follow-up conversation should be had with the Post Office. Chairman Lester added that there needs to be clarify about how the county handles priority mail.

County Registrar Brian Hill and Elections Supervisor April Crosby left the meeting to begin processing the provisional ballots and producing certification paperwork.

At the conclusion of the Board Reports, the updated count was presented to the Board.

Mr. Hicks moved to certify the December 4, 2018 Board of Elections meeting with the information presented by County Registrar Brian Hill. Mr. Wright seconded the motion. The motion passed 3-0. The Board then signed the certification documents.

APPROVAL OF MINUTES:

2. Consideration of staff's request to approve the November 16, 2018 Board of Elections' Meeting Minutes.

Mr. Wright moved to approve the November 16, 2018 Board of Elections' Meeting Minutes. Mr. Hicks seconded the motion. The motion passed 3-0.

PUBLIC HEARING:

3. Public Hearing of staff's recommendation to remove registered Fayette County voters from the Electors List who are registered in the State of Georgia's Secretary of State Voter Registration System as deceased.

Mr. Wright moved to approve staff's recommendation to remove registered Fayette County voters from the Electors List who are registered in the State of Georgia's Secretary of State Voter Registration System as deceased. Mr. Hicks seconded the motion. The motion passed 3-0. A copy of the request, identified as "Attachment 1," follows these minutes and is made an official part hereof.

4. Public Hearing of staff's recommendation to remove registered Fayette County voters from the Electors List who are registered in the State of Georgia's Secretary of State Voter Registration System as felons.

Mr. Wright moved to approve staff's recommendation to remove registered Fayette County voters from the Electors List who are registered in the State of Georgia's Secretary of State Voter Registration System as felons. Mr. Hicks seconded the motion. The motion passed 3-0. A copy of the request, identified as "Attachment 2," follows these minutes and is made an official part hereof.

CONSENT AGENDA:

There were no items on Consent Agenda.

OLD BUSINESS:

There were no items on Old Business.

NEW BUSINESS:

5. Consideration of a letter received from The Lawyers Committee for Civil Rights Under Law requesting the Board of Elections and other parties to reconsider the placement of Sheriff's signs at polling places in Fayette County.

Director Jones provided a context on receiving the phone call from The Lawyers Committee and how he made a decision to remove the sign from the Kenwood Baptist Church polling precinct. Mr. Jones stated that as the fact became clear to him, the discussion involved signs that were printed by the Sheriff's Office and provided to the Elections Office a few years earlier. He added that the signs are actually placed at all thirty-six polling places. He stated that the sign only provides state law that basically informs voters that polling locations are patrolled by the Sheriff's Office. He said he spoke to Major Brian Eubanks with the Fayette County Sheriff's Office and he was told that regardless whether signs are present or not, the Sheriff's Office will still patrol the areas. He added that this discussion was interesting since, if signs are intimidating, how about actual Sheriff's Deputies who actually assigned to polling precincts at schools all day long. Discussion followed.

County Attorney Dennis Davenport suggested that the Sheriff's Office may have been reacting to something and making the signs was part of the reaction. He suggested that conversation be held with the Sheriff's Office to learn why the signs were made and distributed to begin with. He also suggested that the actual code reads and the code should be provided at the January meeting.

The Board agreed to have this matter readdressed at the January 2019 Board of Elections meeting. A copy of the request, identified as "Attachment 3," follows these minutes and is made an official part hereof.

6. Discussion about staff's vacation schedule for the remainder of Calendar Year 2018.

Director Jones stated that given the need to reduce April Crosby's comp time and given the resignation of Leigh Combs, the county staff was placed in times of being shorthanded. By the time the issues were resolved and Brian Hill was hired, the county had moved into Election season. Election season just concluded and there were still significant chunks of time to take with regard to vacation. He presented the vacation schedule to the Board, mentioned that he would actually be losing some vacation time based on this schedule, but recognized that is just the way the "ball bounced" this year. It was pointed out that there would be some days when staff was at a minimum, but Mr. Jones added that this time of year slows down so there should be no real problems. He further added that during conferences, staffing goes even lower than the proposed minimal staffing as recommended in the coming weeks.

The Board stated they had no problem with the vacation schedule as presented. The Board did not vote on this matter. A copy of the request, identified as "Attachment 4," follows these minutes and is made an official part hereof.

7. Discussion concerning whether a Board of Elections member should carry a weapon to a public meeting on county property.

Mr. Hicks stated he wanted this on the Agenda since during the last meeting Mr. Wright came to the meeting with a gun holstered to his side. He said his first question was about what do the county rules say? Secondly, he wanted to know the impact of carrying a gun in a Board of Elections meeting. He asked County Attorney Dennis Davenport to address these matters.

Mr. Davenport stated that over time, state law regarding carrying firearms has changed. He said there are a couple of models to consider. He said the first model is the citizen model meaning if a citizen who is a licensed carrier of a firearm can gain entrance into a public building so long as the building is not restricted or has a screening process by security personnel. He stated that the Administrative Complex has multiple entrances as opposed to a courthouse. He said the default position is that a gun can be brought to a public building so long as it is not restricted. Mr. Davenport stated the second model is the employee model meaning an employee of Fayette County cannot bring a firearm into the county building. He said the employee is able to carry as a citizen, but cannot carry based on the employment arrangement with the county. He said the question before him does not fit either the citizen model or the employee model since it is a hybrid model that needs to be pieced together. Mr. Davenport stated that the law will not say what he is about to say, but it involves logic and reasoning.

Mr. Davenport stated that a citizen who is a licensed carrier of a gun can enter a public building as described earlier, but that does not mean the person can access all parts of the building. The citizen is prohibited from certain areas because they are not employees, irrespective of firearms. A person can have access to the building but not to every place in a building.

He stated that if a person comes to the Elections Office, they are free to come in, but they are not allowed behind the counter which serves as a barrier to a portion of the building where only employees are allowed. He said the technology does not define the barrier, but the layout of the office does. Mr. Davenport stated that a person can come to county meeting in the Public Meeting Room with a gun during a meeting since it is a public space, however, there is a place not accessible to the public namely where the elected officials and staff sit. Mr. Davenport stated that in the present Board of Elections meeting, there is not really a public barrier so a person could wear a gun into the Board of Elections meeting without restriction given the current setup. He said when the office is used for only county business then it is restricted, but when a public meeting is held, there needs to be definition. Mr. Davenport stated that barriers and the lack of barriers make a difference.

Mr. Davenport stated that with regard to the Board of Elections, who is clothed with extra authority than the general member of the public, needs to answer if a setting is informal like the current meeting or is it restricted in some degree. He stated that the members of the Board of Elections need to work together and within their spheres of influence while coming to a resolution that everyone can agree to.

Mr. Wright said there are different barriers. For instance, at the courthouse there is a barrier that would stop or thwart an act of physical violence as opposed to the dais in a public meeting room which provides no barrier. Mr. Davenport said he was not referring to "barrier" as a physical barrier used to counteract force acted upon it, but he used the word as a physical symbol to the general public notifying the public where they are not welcome.

Mr. Hicks asked if it matters if the Board members are compensated by the County. Mr. Davenport stated that the Board member is not an employee but could be covered under the county's insurance policy- something not afforded to the general public. Mr. Hicks stated that if the meeting is being held downstairs and behind a dais, then the dais serves as a barrier. He asked if a person on the Board of Elections goes behind the dais and carries a gun. Mr. Davenport stated that there is no good solution since there is no authority to do anything, so he encouraged the Board members to work together to come to a reasonable solution.

Chairman Lester said he was not present at the last meeting. He said it is awkward that the Board of Elections should do something that the Elections staff cannot do. He thought there were double standards.

Mr. Hicks stated the Board of Elections should not give a false perception in its capacity as a Board of Elections. He said he did not believe a gun should be worn at all at any Board of Elections meeting.

Chairman Lester thanked Mr. Davenport for his legal analysis. Mr. Hicks also thanked Mr. Davenport.

DIRECTOR'S REPORT:

Compliments to Staff: Mr. Jones echoed Mr. Presberg's comments by thanking staff. He stated that the November election was unprecedented and it left uncertainty about the December Runoff Election. He said each staff member has their individual roles to play and everyone comes with individual strengths and weaknesses, but at the end of it all the elections were held successfully.

Mr. Wright agreed with Mr. Jones' statement and said he had heard many compliments and good feedback.

ATTORNEY'S REPORTS:

No Attorney's Report was provided.

BOARD MEMBERS REPORTS:

Mr. Hicks: Mr. Hicks stated that this November 2018 election will give good feedback for future elections. Mr. Presberg asked if numbers were available showing how many people voted during the additional hours that were provided. Mr. Jones replied that he had the information saved on his computer. The Board asked him to provide the information at the January meeting.

Chairman Lester: Chairman Lester stated that some of the feedback he received was that there were voters who were coming to the wrong precinct to vote on Election Day- and at times there were more people questioning where to vote than actually voting. Discussion followed. Ms. Alberta Lucas suggested that perhaps some workshops could be held providing voter education. Mr. Hicks added there is a proposed law that would allow voters to vote at any precinct in the county, and that would be helpful.

Mr. Wright: Mr. Wright asked for a review the training protocols for elections clerks, assistant managers, and managers. He also wanted a review about what poll watchers can and cannot do, and how to handle elderly voters. Mr. Wright reiterated his fervent desire that the county policies be changed so that county employees can defend themselves. He said it was shameful that the county places potential liability in front of the personal safety of its employees. He said he had said that before and he would say that again.

Mr. Hicks: Mr. Hicks disagreed with Mr. Wright's position on county policies saying the liability is tremendous.

Chairman Lester: Chairman Lester stated he would follow up with County Administrator Steve Rapson about space and a new location. Mr. Hicks asked Chairman Lester to mention that something was said about the arraignments even earlier in this meeting. Mr. Wright added he gave a presentation to the Republican Party a couple of weeks ago and was questioned repeatedly about why the election was held upstairs.

EXECUTIVE SESSION:

There was no Executive Session.

ADJOURNMENT:

Mr. Hicks moved to adjourn the December 10, 2018 Board of Elections meeting. Mr. Wright seconded the motion. The motion passed 3-0.

The December 10, 2018 Board of Elections Meeting adjourned at 5:38 p.m.

Floyd L. Jones, Director

Addison Lester, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Elections of Fayette County, Georgia, held on the 22nd day of January 2019. Referenced attachments are available upon request in the Board of Elections' Office.

Floyd L. Jones, Director