

BOARD OF ELECTIONS

Gary Rower, Chairman
Zach Livsey, Vice Chairman
Sharlene Alexander

FAYETTE COUNTY, GEORGIA

Brieanna Garrett, Director
Beverly Daniel, Registrar
Margaret Johnson, Elections Supervisor

175 Johnson Ave., Suite B
Fayetteville, GA 30214



APPROVED MINUTES

July 23, 2024

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.

1. CHAIRMAN TO CALL THE MEETING TO ORDER:

2. APPROVAL OF THE AGENDA:

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander to amend the July 23, 2024 meeting agenda for the Regular Board meeting. Vote Unanimous. Motion carried.

3. PUBLIC COMMENTS:

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

Walt Hanley, a resident of Fayette County, GA, and a longtime professional in the Airline IT industry, spoke at the Board meeting about a significant incident where several airlines experienced major delays due to a faulty security update by CrowdStrike. CrowdStrike's security systems are designed to protect workstations and networks from hacking and cyber-attacks. The incident impacted various sectors, including travel, finance, and government. Specifically, Maricopa Elections faced substantial delays at most polling locations because of these updates, hindering their ability to check in voters. Hanley emphasized that this incident should serve as a reminder for all elections to be prepared for unexpected issues. He inquired whether, during the Logic and Accuracy (L&A) testing process, each printer is tested to ensure ballots are printing correctly. He also asked if there are sufficient emergency ballots available in case of software issues and whether the current staff is adequately trained for such scenarios.

4. OLD BUSINESS:

A. Board By-Laws Review

Chairman Rower outlined proposed amendments to the Board By-Laws. The key changes include altering the meeting location and removing the provision that authorizes the Board to appoint an Election Superintendent.

Board Member Alexander questioned the relevance of the Election Superintendent clause in light of state law

O.C.G.A. § 21-2-71, specifically inquiring about the governing authority's responsibility for funding employees and poll workers. Attorney Stough indicated that further legal review is necessary to provide a definitive answer.

Board Member Alexander expressed concerns about the lack of clarity in the By-Laws regarding the Board's role and the delegation of responsibilities to the Elections and Voter Registration Office. She suggested that the Board should reclaim certain duties, such as overseeing the budget, poll worker training, and selection of staff. Attorney Stough clarified that the By-Laws govern the Board, while rules and procedures are typically documented separately.

The discussion on By-Law amendments was tabled until August to allow for further review and input, particularly from Board Member Alexander, before any final decisions are made.

Motion made by Board Member Alexander, seconded by Vice-Chair Livsey, to table the review of amendments of the Board By-Laws with suggestions being shared in advance to the Board and then to Attorney Stough prior to the August Board meeting. Vote Unanimous. Motion carried.

5. NEW BUSINESS:

A. Voter Challenge Policy Review

Chairman Rower announced that staff had produced a draft of guidelines for voter challenges.

Attorney Stough stated he would provide an updated draft and recommended that the final guidelines also address challenges under statute O.C.G.A. § 21-2-230. He emphasized the importance of ensuring that all policies comply with legal boundaries, particularly in handling challenges from Fayette County residents.

Board Member Alexander inquired about voter challenges based on changes in residence, noting that while a voter may register in multiple states, they are only permitted to vote in one.

Attorney Stough clarified that a voter is only in violation of the law if they vote in more than one state. He also stated that a voter could be removed from the Fayette County voter list if they confirm in writing that they are voting in another state, with registration in another state potentially serving as such confirmation.

Board Member Alexander suggested that the Board consider revising the voter challenge policy regarding changes of residence to clarify what constitutes a legal written confirmation from the voter.

Attorney Stough indicated that the current language is intentionally broad to allow flexibility in considering various forms of written confirmation from the voter. He further explained that a voter can be removed from the list either if they confirm their residence change in writing or if they fail to respond to a notice and do not vote in two consecutive elections.

Motion made by Board Member Alexander, second by Vice-Chair Livsey, to table the review of the Voter Challenge Policy. Vote Unanimous. Motion carried.

B. State Election Board Response

Chairman Rower addressed the State Election Board's July 9th meeting, where Board Member Alexander petitioned as a private citizen to count ballot paper at the precincts. Although she stated her opinion as her own, her mention of being a Fayette County Board of Elections & Voter Registration Member created the impression that her views represented the Board. Chairman Rower noted that the media had reached out to Fayette County Elections and Voter Registration staff and himself for comments on behalf of the Board, but they declined to comment as the petition had not yet been discussed.

Chairman Rower mentioned that the State Election Board had requested a response within 30 days and sought guidance from the Board on how to proceed.

Board Member Alexander notified the Board that she clarified to the State Election Board that she was acting independently and not on behalf of Fayette County. She also inquired if the Board had any objections to the proposed rule change.

Chairman Rower explained that in 2019, the State Election Board addressed this issue, emphasizing that state law requires election night reporting to be completed by 10:00 PM. The 2019 evaluation revealed that many counties failed to meet this deadline, leading to the discontinuation of counting ballots at precincts. He stated that Alexander's petition could risk precincts not complying with state law.

Vice-Chair Livsey acknowledged the right of individual citizens to freedom of speech but advised that individuals should be cautious not to represent themselves as speaking on behalf of the Fayette County Board of Elections & Voter Registration at public meetings, even unintentionally, to avoid giving the impression of official representation.

Attorney Stough mentioned that the Board could opt for a "No Response" to the State Election Board. Vice-Chair Livsey also recommended that, given the upcoming election, Fayette County should avoid introducing any new election night procedures that could lead to non-compliance with state law including providing public response.

Motion made by Chairman Rower, seconded by Vice-Chair Livsey, to not provide comment on behalf of the Fayette County Board of Elections & Voter Registration to the State Election Board Rulemaking Amendment. Board Member Alexander abstained. Motion carried.

C. Selection Appointing and Training Poll Workers

Chairman Rower highlighted that enabling legislation, over 25 years old, specifies in section nine that the Board is responsible for selecting and appointing poll workers. However, this task has been delegated to the Elections and Voter Registration Director and staff due to their resources. The Board now seeks to formally delegate this authority to the Director and staff.

Board Member Alexander disagreed, that the responsibility should remain with the Board and suggesting that procedures be established to keep the Board involved. She cited state law O.C.G.A. § 21-2-90, which allows political parties to provide lists for equal representation of poll workers. Chairman Rower and Attorney Stough were unfamiliar with the statute.

Attorney Stough noting that the Board is working with a limited pool of poll workers, which should be considered when developing policies and procedures. He requested guidance from the Board to create these procedures.

Director Garrett reported that she has begun implementing instructions to improve the transparency of the poll worker selection process.

Board Member Alexander emphasized the importance of ensuring fairness in the selection process and requested that procedures be put in place to maintain Board oversight. Chairman Rower suggested that moving forward, transparency in poll worker selection could be included in the Director's report, reiterating that the Board should not be involved in the day-to-day operations of the Election and Registration office.

Motion made by Vice-Chair Livsey, seconded by Chairman Rower, opposed by Board Member Alexander to delegate the authority of selection and training of Poll Workers to the staff. Motion carried.

D. Addressing Voter Challenge

Chairman Rower announced that staff had been authorized to conduct due diligence on the day's voter challenge to determine if a hearing was necessary. Attorney Stough was initially unaware of the challenge, so Chairman Rower

briefed him on the situation, noting that Board Member Alexander had presented the challenge on behalf of another individual.

Attorney Stough indicated that the information provided was more informational than a formal voter challenge. Board Member Alexander acknowledged that she did not believe the information met the criteria for a voter challenge, as it only included the name and birth date.

Board Member Alexander requested clear guidance on how to properly submit voter challenges. Attorney Stough advised that obituaries could serve as valid documentation for voter challenges and warned the Board that if valid information is presented and they fail to act within 60 days, the State Election Board could take action against them.

Chairman Rower informed that, under statute O.C.G.A. § 21-2-231, staff does not need Board authorization to act on voter challenges. He sought confirmation from Attorney Stough that the Election and Registration staff could proceed without Board action regarding deceased voter challenges. Attorney Stough confirmed that staff may act independently in such cases. Chairman Rower concluded that since the current issue did not constitute a formal voter challenge, no further guidance from the Board was necessary.

Attorney Stough recommended that all voter challenges be treated uniformly.

No Motion.

6. APPROVAL OF THE JUNE 21, 2024 MEETING MINUTES:

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander to approve the June 21, 2024 Meeting Minutes. Vote Unanimous. Motion carried.

7. APPROVAL OF THE JULY 16, 2024 SPECIAL MEETING MINUTES:

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander to approve the July 24, 2024 Special Meeting Minutes. Vote Unanimous. Motion carried.

8. PUBLIC HEARING:

- A. 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. **(Deceased List)**

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander to remove the listed electors who are deceased. Vote Unanimous. Motion carried.

- B. 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. **(Felons List)**

No felons presented.

- C. 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 Mentally Incompetent. **(Mentally Incompetent)**

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander to remove the listed electors who are mentally incompetent. Vote Unanimous. Motion carried.

- D. 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 Cancelled. **(Cancelled)**

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander to remove the listed electors who are Cancelled. Vote Unanimous. Motion carried.

E. Public Hearing for the scheduled Voter Challenge.

Chairman Rower called for the representatives of the voter challenge brought by Lana Christian against Jacob Hurley Bon Jovi. No representative from either party was present. Attorney Stough explained that under Georgia statute, the burden of proof lies with the challenger to demonstrate the ineligibility of the challenged voter. In this case, sufficient information was available for the Board to act without requiring the presence of either party.

Chairman Rower requested a summary of the challenge, and Director Garrett reported that the challenge, based on statute O.C.G.A. § 21-2-229, was received on July 7, 2024, concerning the voter's residence. Register Daniel's investigation found that the location in question was not a residence, leading staff to recommend the cancellation of the voter's registration.

Vice-Chair Livsey sought confirmation that the challenge would proceed under statute O.C.G.A. § 21-2-229, not O.C.G.A. § 21-2-228 and expressed concern about the short timeframe given for the challenged voter to respond. He suggested that pursuing cancellation under OCGA § 21-2-228 might be more appropriate, as it allows for the removal of voters based on supporting information. However, Attorney Stough advised that the challenge should proceed under O.C.G.A. §21-2-229, as it was filed under that statute.

Director Garrett confirmed that efforts were made to notify both the challenger and the challenged, including a hearing notice sent on July 17, 2024, and a phone call to verify the address. Attorney Stough also noted that the location in question houses businesses, further supporting the challenge.

Chairman Rower concluded that the staff had conducted due diligence and recommended proceeding with the challenge under statute O.C.G.A. §21-2-229.

Motion made by Board Member Alexander, seconded by Chairman Rower, opposed by Vice-Chair Livsey to cancel Jacob Bongiovi from the elector roll as a result of the voter challenge hearing. Motion carried.

9. DIRECTOR REPORT:

Director Garrett reported that as of July 22, 2024, Fayette County has a total of 101,161 registered voters. The Georgia Secretary of State hosted a regional Table-Top exercise for local Election Officials and Law Enforcement, focusing on operational plans and security threats for the upcoming election cycle. Director Garrett, Chief Miller, and Election Supervisors Johnson attended this exercise.

Registrar Daniel has scheduled a voter registration education event for August 6, 2024, aimed at providing the community with a clearer understanding of the voter registration operations of the Elections and Registration Office. Additionally, a series of Poll Worker workshops will be held in October, with plans for a potential public event to address questions and provide information on the election process. The Elections and Voter Registration Office has also revamped the poll worker application process to align with the new software that will be implemented for poll worker management.

10. ATTORNEY'S REPORTS:

Attorney Stough informed the Board of a recent notification from the State Board of Elections concerning a Poll Worker, who is the sole respondent in the case. The case includes that the poll worker is alleged of allowing an ineligible individual to vote, although the poll worker claims the issue was related to election software. There is no evidence that a vote was entered for the ineligible voter in the county database. Attorney Stough inquired whether the Board would like to respond, even though they are not obligated to do so.

Board Member Alexander expressed her belief that this issue had already been resolved. Director Garrett clarified that the case is scheduled to go before the State Board of Elections on August 6, 2024. Chairman Rower mentioned that the Poll Worker had reached out to him regarding the incident. Attorney Stough asked for the Board's direction on how they would like to proceed with the matter.

Motion made by Chairman Rower, second by Vice-Chair Livsey, to provide a statement response of the office's findings as a result of internal research regarding SEB2022-344 on behalf of the Board. Vote Unanimous. Motion carried.

11. BOARD MEMBERS REPORTS:

Chairman Rower discussed his attendance at a meeting in Columbus, Georgia, for the "Vet The Vote" program, a nationwide veteran recruiting initiative in partnership with the Secretary of State. He noted that many of Fayette County's Poll Workers are already included in the Vet the Vote database. The Secretary of State expressed enthusiasm about seeing Fayette County Elections and Registration staff, along with Law Enforcement, at a recent training he attended. Chairman Rower commended the staff for their excellent work in participating in the program.

12. EXECUTIVE SESSION: (as necessary for litigation and personnel)

No Executive Session.

13. ADJOURNMENT:

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander to adjourn the meeting. Vote Unanimous. Motion carried. Meeting adjourned at 6:20 P.M.

Brianna Garrett, Director

Gary Rower, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Elections of Fayette County Georgia, held on the 27th day of August 2024.

Referenced attachments are available upon request in the Board of Elections' Office.