

BOARD OF ELECTIONS

Gary Rower, Chairman
Zach Livsey, Vice Chairman
Sharlene Alexander

FAYETTE COUNTY, GEORGIA

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

175 Johnson Ave., Suite B
Fayetteville, GA 30214



**APPROVED
MINUTES**
August 27, 2024
5:00PM

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 approve August 27, 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.

Cynthia Derrico: has been a poll worker and manager for nearly ten years. She would like to ask the Board if there is any clarity regarding the staffing levels for the upcoming election. Will there be overtime available for workers in these roles? Additionally, is there any guidance on whether ballots will need to be counted at the precinct? Will the work schedule consist of six consecutive days, or will there be rotating shifts? In the past, the team had eight workers, but this was later reduced to six. The four staff members currently on her team are feeling overwhelmed.

Walt Hanley: would like to address concerns stemming from the November 2020 election. During that election, many counties, including Fayette, encountered issues when Advance Voting locations discovered that ballot scanners stopped working because the memory cards were full, reaching their capacity at 10,000 votes. This issue in Fayette County contributed to the discovery of 2,755 votes more than a week later, which made headlines nationwide. A memo was sent by Chris Harvey, the State Election Board Division Director, warning of this memory card issue. The recommended solution was to prepare additional scanners when nearing 10,000 ballots, and in the absence of a spare scanner, to swap out the memory cards in emergencies. Unfortunately, due to swapping cards, it went unnoticed that one of Fayette County's early voting locations had only uploaded partial results, while the second set remained in a safe. Georgia election law OCGA § 183-114-02, section nine, clearly states that memory cards shall remain in the ballot scanner at all times until the polls close. While this issue was unavoidable in 2020, Fayette County should have been prepared in 2022 by having additional scanners available. However, instead of being prepared, Fayette County once again had to swap memory cards at two locations, which violated state law. This practice of swapping memory cards poses risks, as it opens the possibility

for votes to be prematurely altered, substituted during transit, or left undetected. Does Fayette County have a plan in place to deploy additional scanners at Advance Voting locations, or do you plan to continue swapping cards? If so, could this subject the staff and Board to potential sanctions? Has Fayette County developed its own procedures to safeguard the integrity of the vote, especially given that these cards hold enough votes to potentially alter the election outcome? It is also critical that the public be allowed to monitor the procedures being carried out during the election results process.

Cathy Vaught: serves as a Poll Watcher for precinct five, overseeing absentee ballot processing and adjudication. She is interested in understanding how observers will be accommodated. She would like the ability to both see and hear what is happening in the tabulation room on election day. This accommodation was approved under Senate Bill 189.

Jim Forestal: has a personal concern regarding the mass immigration of over 10 million individuals. Due to this concern, he is requesting that the Fayette County Board provide public notice to residents on how they will prevent non-citizens from voting. Specifically, what measures will the Board take to ensure that non-citizens are not able to vote electronically or through absentee ballots? Additionally, should there be new laws put in place to guarantee that only U.S. citizens are permitted to vote?

Jessica Whelan: fully supports the efforts of the Board of Elections to maintain integrity and ensure that both state and federal election laws are followed. She appreciates all the Board is doing to ensure this process remains non-partisan, knowing that every vote cast is a legal vote and that every vote counts.

Suzanne Brown: seeks clarification regarding the challenges being filed across the county and state. She has concerns about the procedures followed when filing and defending these challenges. She would like to know what procedures the Board has adopted regarding such challenges. A recent change in SB 189, Section 9, paragraph B, states that the Board of Registrars shall immediately consider challenges and determine whether probable cause exists to sustain them. This pertains to section 21-2-230. The paragraph notes that probable causes shall include, but are not limited to, an elector who is deceased, an elector obtaining a homestead exemption in a different jurisdiction, or an elector registered at a non-residential address. It also states that if a challenged elector's name appears in a national database, it is insufficient to sustain the challenge unless additional evidence indicates the elector has lost residency, as determined under code OCGA § 21-2-217. Will the Board clearly outline what constitutes probable cause and what documentation should be submitted as proof? Please provide specific details on whether a copy of voter registration from another state or a homestead exemption outlined on tax records from another jurisdiction is required. A clear list of procedures would streamline the process and clarify what must be submitted.

Jamie Harmon: would like to know the formula used to staff Poll Workers. Additionally, what is the name of the new management system? Are there maps available for the early voting locations? She understands that the reason the Brooks precinct experiences large crowds on election nights is due to the lack of no early voting location nearby. She would also like to know the hours for early voting and whether there will be Sunday voting. She notes that Clayton County offers two Sundays for voting and asks if Fayette County could offer at least one. This election is very important, and every citizen should have the opportunity to vote. What is the timeframe between applying for and receiving an absentee ballot? Are there any plans to address possible delays with the United States Postal Service? Who is responsible for designing the ballots for the counties? Are public comments allowed on ballots before they are printed and reviewed for accuracy? Has Fayette County processed any cancellations through the web portal, and if so, how many? Was there any training provided to the Election Office from the Secretary of State prior to creating the website? Additionally, will Fayette County charge fees for those submitting large-scale challenges, such as 50,000 at a time? Will Fayette County precincts have more than eight Ballot Marking Devices (BMDs)? Lastly, there have been concerns raised about voter privacy—are there any plans to address these issues?

Veronica Jarmon: would like to commend the County Board of Elections for the way they composed themselves when faced with difficult situations. She has learned that there seem to be multiple methods for removing deceased individuals and felons from the voter roll and was surprised to learn about the process of filing challenges. Veronica hopes that everything continues to remain fair.

4. OLD BUSINESS:

A. Board By-Laws Review

Chairman Rower opened the floor for discussion for the review of the Board By-Laws.

Board Member Alexander raised several points, noting that the By-Laws, last amended in March 2020, require updates to reflect changes, such as meeting locations and clarity on the Board's duties. She emphasized the importance of reinforcing non-partisanship and proposed revisions to address political activities, including prohibiting fundraising, campaign involvement, and public displays of support for candidates.

A significant concern for Board Member Alexander is the current appointment process for the Director of Elections. The By-Laws state that the Board should appoint the Director, but currently, this responsibility falls to the Board of Commissioners, which she finds problematic. Alexander called for this power to be returned to the Board and for a full listing of Board duties in the By-Laws to ensure clarity over delegated responsibilities.

Vice-Chair Livsey expressed his belief that the County Manager hires the Election Director.

Attorney Stough confirmed that the Board of Commissioners has delegated this hiring duty to the County Manager.

Chairman Rower explained that, according to state law OCGA § § 21-2-101, the Director of Elections is treated as a Department Head, hired through Human Resources, and overseen by the County Administrator. He clarified that the Board does not have the legal authority to direct hiring decisions, but it can designate the Director's duties as allowed by law.

Attorney Stough confirmed that the enabling legislation gives the Board of Commissioners discretion over Election Department employees and that any changes would require action by the General Assembly. He also explained that state law governs conflict of interest concerns and Board member removal, making it unnecessary to include those in the By-Laws.

Chairman Rower emphasized that the Board's role is to provide guidance and oversight, not engage in day-to-day operations, which are delegated to the Director.

Board Member Alexander expressed concerns about how limiting the Board's involvement in daily tasks might impact its oversight responsibilities. However, Chairman Rower clarified that the existing legislation and By-Laws outline the Chairman's role in working with staff to execute the Board's directives.

Motion made by Vice-Chair Livsey, seconded by Chairman Rower, Opposed by Board Member Alexander, to approve the proposed two changes regarding the meeting location and designating of the Superintendent in the By-Laws. Motion carried.

B. Voter Challenge Policy Review

Chairman Rower discussed the procedures for handling voter challenges under OCGA § § 21-2-229 and OCGA § § 21-2-230. Attorney Stough explained revisions to the Voter Challenge Policy, clarifying that OCGA § § 21-2-229 addresses challenges to a voter's eligibility to remain on the voter roll, while OCGA § 21-2-230 pertains to challenges to a voter's eligibility in a specific election.

Attorney Stough emphasized that the OCGA § 21-2-229 challenges require a probable cause determination, while OCGA § 21-2-230 does not specifically. He highlighted the need to ensure the Board's actions do not constitute systematic voter list maintenance, which would trigger the 90-day National Voter Registration Act (NVRA) rule.

Chairman Rower raised concerns about the policy requiring challenges to be posted on the Board's website within three days, noting the reliance on an external website agency for updates.

Director Garrett suggested removing the language, explaining it was added for transparency but could be reconsidered.

Attorney Stough informed the Board that due to the upcoming election within 90 days, many challenges would be on hold under the NVRA, but exceptions for removal based on criminal conviction, mental incapacity, voter request, or death could still be processed. He also clarified that the Voter Challenge process is governed by Georgia law, not federal law, and that no formal challenge is required if evidence is provided directly to the Director, such as proof of a deceased voter.

Board Member Alexander sought clarification on procedures during the 90-day window.

Attorney Stough outlined the exceptions that would allow certain challenges to proceed.

The Board agreed that more time to review the policy was necessary.

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander, to table the voter challenge policy review. Vote Unanimous. Motion carried.

5. NEW BUSINESS:

A. Voter Challenge Consideration

Chairman Rower reported that the elections office received 1,154 voter challenges. After consulting with the county attorney regarding the 90-day "quiet period" under the National Voter Registration Act (NVRA), he expressed uncertainty about the Board's ability to act on these challenges, as none fall under the three permissible categories previously outlined by Attorney Stough.

Vice-Chair Livsey referenced a previous case in which the county proceeded with challenges within the 90-day period, resulting in the Middle District of Georgia overturning those actions. He asked for confirmation that the Board is currently within 90 days of a federal election.

Attorney Stough confirmed that they are within the 90-day period and that the current voter challenges involve removals not allowed during this time.

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander, to dismiss the challenge based on the National Voter Registration Act. Vote Unanimous. Motion carried.

6. APPROVAL OF THE JULY 23, 2024, MEETING MINUTES

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander, to approve the July 23, 2024 Meeting Minutes. Vote Unanimous. Motion carried.

7. 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)**

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

- 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)**

No Motion.

8. DIRECTOR REPORT:

Director Garrett reported that as of August 26, 2024, Fayette County has 101,545 registered voters. Advance Voting is tentatively scheduled for October 15th through November 1st, from 9 AM to 5 PM, including Sundays. All four advance voting locations will be utilized.

In August, the staff participated in a voter education series covering office protocols, provisional and absentee voting, and Election Day operations.

The poll worker application process has been revamped, with Easy Vote, a new software. A Poll Worker Open House is scheduled for September 12th at the library, offering information to those interested in working the polls.

A managers' meeting is planned for the week of September 16th. The event is designed to provide those interested in serving on Election Day with an opportunity to explore the roles and responsibilities of poll workers. Attendees will also have the chance to interact with election equipment, observe demonstrations, and gain a deeper understanding of the processes involved at the precinct on Election Day.

Additionally, a six-day rotation schedule will be implemented for Advanced In-Person (AIP) voting. Updates on AIP numbers and schedules will be provided to the Board once finalized.

9. ATTORNEY'S REPORTS:

No Report.

10. BOARD MEMBERS REPORTS:

Board Member Alexander highlighted the importance of addressing public concerns, noting the increased public involvement in meetings. She emphasized the Board's responsibility to help the public understand the election process and suggested that while immediate responses may not always be possible, the Board should ensure follow-up on public questions. Board Member Alexander also expressed concerns about precincts that still need replacement, urging action on the matter.

Vice-Chair Livsey thanked the Director and staff, acknowledging that the election staff often doesn't receive the recognition they deserve for their hard work.

Chairman Rower addressed several public inquiries, including those related to early voting hours, memory card scanners, and poll worker staffing. He also discussed the potential for ballots to be counted at precinct locations on election night, stating that any updates from the State Election Board or court rulings will be communicated to the public. He expressed gratitude to the staff for their efforts.

Board Member Alexander inquired about when decisions are made regarding the adjustment of early voting hours.

Attorney Stough responded, explaining that state law sets a minimum requirement of 9 AM to 5 PM for voting hours.

Chairman Rower added that while the Board has extended voting hours to 12 hours in the past, any changes require advance notice to voters and sufficient staffing of poll workers. He concluded by stating that the staff would gather more information, and a decision would be made at the next meeting.

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

No Executive Session.

12. ADJOURNMENT:

Motion made by Vice-Chair Livsey, seconded by Board Member Alexander to adjourn the meeting. Vote Unanimous. Motion carried. Meeting adjourned at 6:19 P.M.

Brianna Garrett, Director

Gary Rower, Vice-Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Elections of Fayette County Georgia, held on the 24th day of September 2024.

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