

# After Agenda

**Board of Commissioners of Spalding County  
Work Session  
Monday, May 3, 2021  
9:00 AM  
Room 108, Annex Building**

**The Spalding County Board of Commissioners held Work Session in Room 108 of the Spalding County Annex on Monday, May 5, 2021, beginning at 9:00 a.m. with Chairman Clay Davis presiding. Commissioners James Dutton (who arrived at 9:15 a.m) and Rita Johnson were present for the meeting. Commissioner Gwen Flowers-Taylor participated via ZOOM. Commissioner Ryan Bowlden was absent from the meeting. Also present were County Manager, William Wilson, Assistant County Manager, Michelle Irizarry, County Attorney, Stephanie Windham (who arrived at 9:25 a.m.), T.J. Imberger, Director of Parks, Public Grounds and Public Works, Kelly Carmichael, Supervisor of Leisure Services and Kathy Gibson, Executive Secretary to record the minutes.**

**I. OPENING (CALL TO ORDER) by Chairman Clay Davis.**

**PLEASE SILENCE YOUR CELL PHONES AND ALL OTHER ELECTRONIC DEVICES.**

**II. INVOCATION**

Commissioner Rita Johnson, District #3, delivered the Invocation.

**III. PLEDGE TO FLAG**

Chairman Clay Davis, District #5, led the Pledge to the Flag.

**IV. AGENDA ITEMS**

**1. Update on HB 769**

Stephanie Windham, County Attorney reviewed HB 769 with the Board and advised the following:

- Section 5 – There is no action to be taken by the Board regarding this item as this will be addressed by the political parties and the Superior Court Judges in Spalding County. On April 19, Chief Judge Fletcher Sams sent a notice to the Public regarding taking applications for the fifth board member of the Board of Elections and Registration.

Ms. Windham then stated that she had spoken with Miles Neville and provided her opinion of Section 12 of the bill regarding the residency requirement for the Elections Supervisor and staff. There is only one member of staff at the Elections Office who resides in Spalding County.

Ms. Windham then stated that on April 23<sup>rd</sup>, she spoke with Marcia Ridley, Elections Supervisor and provided Ms. Ridley with her interpretation of Section 12 as well.

On April 27, 2021, Ms. Windham, Miles Neville, William Wilson, Jim Fortune

and John Lowery, Human Resources Counsel spoke on the phone and discussed how we were going to handle HB 769 as it related to the Elections Supervisor and the staff members who did not meet the residency requirements.

Ms. Windham then advised that Margaret Bentley and Glenda Henley who were the Democratic Party appointments to the Board of Elections and Registration have resigned. She is not sure they resigned according to the bylaws of the legislation, but it really doesn't matter. These two individuals have resigned and with no fifth board member we have two members of the Board of Elections which is not a quorum and they cannot transact any business. The Board of Elections is the Employer of the Elections Supervisor and employees.

Ms. Windham advised there has been some conversation with the head of the Democratic Party and we have been told there are two others who will be named to replace the individuals who resigned. Ms. Ridley stated she has forwarded the two names to the Clerk of Superior Court, but as of today Ms. Windham has not been provided with the names of the replacements and the process preceding a new Board Member actually takes a few weeks. It has to go from the Clerk of Superior Court to the Governor and back to the Probate Judge.

Ms. Windham stated that the Clerk of Court was in a conference at the time of her initial conversation with Ms. Ridley and it is Ms. Windham's understanding that Ms. Ridley will be submitting those names to the Clerk of the Court today. Ms. Ridley also asked on April 28<sup>th</sup> if her position and the position of the staff members would be grandfathered, such that the bill would not apply to them.

Ms. Windham advised that it is her opinion that there is no provision in the legislation for grandfathering. Generally speaking you have to specifically grandfather something for it to be considered. If you don't set it out, then it is not assumed that any position is grandfathered.

Ms. Windham has been in contact with Secretary of State Investigator, Paul Braun. There is an on-going Secretary of State Investigation into the Spalding County Board of Elections and Registration and Mr. Braun has put her in contact with someone who may be able to assist in some of the administrative problems we are dealing with. His name is Chris Harvey, and she hasn't at this time been able to contact him. She will continue to try. She is hopeful that he will be able to give her some direction on how we are suppose to run the office with no one in charge.

Ms. Windham stated that in the meeting with the Human Resource Attorney and staff, it was determined that Section 12 of HB 769 as revised does not call for the immediate termination of the Elections Supervisor and the staff members. We interpret it as it is to provide an appointment of an Elections Supervisor within 60 days of the effective date of HB 769.

Ms. Windham advised that Commissioner Dutton disagrees with that position, he believes that termination was automatic as of the signing of this bill and his position is based on discussion with our legislators as to the intent of the bill. It may be that their intent was that the termination would be immediate as of April 13<sup>th</sup>. However, Section 5 in regard to the immediate termination of the fifth board member is clear. It specifically says that as of the date that this law goes into effect, the fifth board member position is terminated and it will be up to the Judges to choose another one.

Ms. Windham then stated that Judge Sam's advertisement gives until May 24<sup>th</sup> for applications for that position to be turned in. He did not have to take applications, but that is the way he chose to handle it. So, the very earliest that we will have a 5<sup>th</sup> board member is May 25<sup>th</sup>. We may or may not have the two others appointed by that time. The Board of Elections is scheduled to have a meeting on May 11<sup>th</sup> and she is certain that they will not have a quorum at that time and the meeting will have to be cancelled.

Ms. Windham stated that in Section 5 it calls for immediate termination of the fifth board member, upon the signing of HB 769 by Governor Kemp. So that is plain language, there is no room for any other interpretation. That's not set out in Section 12 and this is the section that deals with the residency requirements for the Elections Supervisor and staff. That section says "The Board shall act to appoint such administrative director or elections supervisor within 60 days of the effective date of this section, or the date of any vacancy of such position. Such election supervisor shall be a legal resident of and registered to vote in Spalding County and shall remain a legal resident of and registered elector of Spalding County while serving as elections supervisor."

Ms. Windham stated that if the legislation had intended for that position to terminate immediately upon the execution of this bill, it could have easily said so as it stated that explicitly regarding the fifth board member. Logically speaking, we don't employ the elections supervisor, again the Board of Elections employs her and there are only 2 members of the Board of Elections at this time, so there is no one who can say that she is terminated. All we can do is say, your payment is stopped based on this date. Mr. Lowery, Mr. Fortune and Ms. Windham agree that the date should be June 14<sup>th</sup>, which is the end of the pay period and is also the end of the 60-day timeframe. Commissioner Dutton is adamantly opposed, he believes that the chaos that will ensue is based on the fact that we are in violation of HB 769 if we don't say you should have been released as soon as we learned the legislation had been signed.

Ms. Windham advises that in her opinion the chaos would be that we have no one in the Elections Office and the idea of pad locking the doors to the Elections and Registration Office such that no one can come and register to vote is more chaotic than anything else that could possibly happen.

Mr. Wilson advised there is one employee in the office who resides in Spalding County, but she is scheduled to be out of the office for an extended period of time for medical reasons and that compounds the issue.

Commissioner Johnson stated if we were to do this the way Commissioner Dutton wants it done and it's not worded in the way that the fifth board member was worded, could we open ourselves to litigation.

Ms. Windham stated that we are open to litigation any way you look at it.

Commissioner Flowers-Taylor stated that her concern with everything that is going on is how are we going to have an election? If the Board of Elections and the Elections Office is in total disarray and if they are talking about locking the doors, how are we supposed to be preparing for a SPLOST.

Ms. Windham advised that is the reasoning behind the conversation that she will hopefully have today with Chris Harvey at the Secretary of State's Office. The legislation does not in any way provide for these unintended consequences that

we are currently facing. The administrative nightmare that this is, was not considered at all. Hopefully, the Secretary of State's Office will be able to give her some guidance.

Ms. Windham then advised that she feels what she has presented to the Board this morning is a reasonable interpretation of Section. She believes it is reasonable because it could have been included in the plain language of the bill as it was in Section 5 and the Elections Supervisor and the staff could choose to move to Spalding County. The Elections Supervisor has stated that she doesn't intend to move, but nothing in the legislation would indicate that their relocation would not be allowed. She also feels that the interpretation of Section 12 is reasonable because the legislator doesn't have the authority to hire and fire an Elections Supervisor and this legislation provides that the Board of Elections has that sole authority. The Elections Supervisor and the employees of the Elections Office serve at the pleasure of the Board of Elections.

Ms. Windham stated that we are currently in a position where the Board of Elections cannot even post the job, because the people who have the authority to tell us to post the position are not in existence. We have two members, no quorum, we can't meet, we can't discuss, we can't determine anything.

Mr. Wilson added that their bylaws actually state that a quorum is three members.

Ms. Windham advised that the 2003 legislation provided a fallback position and that position allowed the County Manager and the governing authority of the County to take action if action wasn't taken by the Board of Elections. That has been removed the 2021 Legislation. So, there is no fallback position. There is no back up as to what can be done if everybody who can make the decision is gone.

2. Discussion and review of projects for proposed 2021 T-SPLOST referendum.

Mr. Wilson stated that T.J. Imberger is here this morning to advise what Public Works would like to see in a TSPLOST, including resurfacing.

T.J. Imberger, Director Parks, Public Grounds and Public Works, stated that resurfacing is important and he would like to respectfully request the if a TSPLOST is considered that we look at an overall Public Works programs. The items would include: Vehicles, Equipment, Storm Water, Infrastructure, Large Patching, New Pavement Conditioning, Crack Sealing, Road Signage Upgrades, Dirt Road Maintenance, Vehicle and Equipment Maintenance Shop Upgrades, Road Striping and Engineering Assistance. He would like to address all Public Works concerns so that we can maintain our infrastructure, that is old and to be efficient in maintaining what we have.

Mr. Wilson advised that the Board had asked for Mr. Wilson to use a potential income of \$750,000 per month which would equal \$45 million and if the County does the TSPLOST alone it would be \$33.75 million. If we do an intergovernmental agreement, the agreement from before was a 66 ½% - 33 ½% split the year it failed. If you use that distribution, it would be \$29.9 million for the County and \$15 million for the City.

Mr. Wilson then stated that he had sent the Board an email with what is called

“Centerline Road Mileage.” The County and the City must submit Centerline Road Mileage every year to the State and that is what our LMIG funding is based on. If you take the County’s Centerline and the City’s Centerline, add the two together and divide it out, you actually get closer to a 75%-25% split, which is real close to what the funding would be for the County if we did not include the Cities.

Mr. Wilson stated that we have a meeting on Thursday afternoon with the Cities and TSPLOST and the division of the TSPLOST will be discussed as well as projects. The Board can call for a TSPLOST by themselves, without the Cities, but you can only levy  $\frac{3}{4}$  of a penny and not the full penny.

Chairman Davis then advised that he would like for Commissioner Flowers-Taylor to lead the discussion on the percentage with the City on Thursday at the meeting.

Commissioner Flowers-Taylor then asked if the Board is looking for a 25-75% split?

Mr. Wilson stated that would be the best split for the County and we could justify it with the centerline mileage.

Commissioner Flowers-Taylor then asked what method had been utilized in the past to figure the percentages.

Mr. Wilson advised there have been a number of methods from population, to utilizing the split for LOST and working from there, but there has been no formula used, it has just been determined between the Boards.

Commissioner Flowers-Taylor stated that she doesn’t have a problem leading that conversation, she just needs to have the details.

Mr. Wilson stated that if she wanted to come by his office prior to the meeting he would go over it step-by-step.

Commissioner Johnson stated that worst case scenario she would ask the Board put a maximum of 70-30 on the split. She doesn’t feel we should go that high as she is good with the 75-25%.

Mr. Wilson then advised that the TSPLOST that failed the split was 66  $\frac{1}{2}$ -33  $\frac{1}{2}$  so that is what we agreed to on the last TSPLOST vote that did not pass.

Commissioner Dutton then requested that the focus of the TSPLOST be on resurfacing roads and not the paving of dirt roads. He feels that many people did not vote for the TSPLOST last time because it included the paving of dirt roads. He feels that this is what defeated the last TSPLOST was the emphasis that was placed on the paving of dirt roads in the County.

Commissioner Flowers-Taylor then stated that many of the individuals she has talked with regarding the TSPLOST was not aware that the purpose of this SPLOST was to pave roads. She also stated that education on this TSPLOST is extremely important.

Chairman Davis stated this is a big issue for the Board and he would like to see the maximum information gotten out to the citizens as soon as possible. He then asked that Mr. Wilson put his staff recommendation that he made to the Board on all the social media platforms and ask for comments on this. He also asked that an explanation of how these roads were chosen be included in the notification to the citizens. We need to let them know this is based on a study of conditions of the right-of-ways and not by the Board of Commissioners.

Mr. Wilson stated he would get with Rachel Conort, Citizen Engagement Specialist, and they would try to get something out in the morning on the roads to be paved.

Commissioner Flowers-Taylor and Commissioner Johnson advised they are not good with the list being proposed as no roads in their districts are scheduled for resurfacing until well into the TSPLOST. They feel that consideration should be given in roads for all of the districts.

Chairman Davis then stated that he wanted to put the list being proposed out to the Public so that it can be reviewed and we can receive input. If the citizens in one district feel they are not receiving fair consideration, they can voice their concern. We have to start somewhere, and this is where we can start the education process and get input from the citizens.

Chairman Davis then stated it is his understanding that on July 1<sup>st</sup> we have to send the exact wording to Kennesaw State to get them started on the wording for the ballot.

Mr. Wilson stated that all of the ballots are designed and built by Kennesaw State and we have been notified that July is the drop-dead date to get a ballot for the November election.

Chairman Davis stated that July is coming up quick, that is why he wants to get something out so that we can get a conversation started with our citizens. Chairman Davis stated that we are not arbitrarily going with the list being presented, that is a recommendation to the Board. The Board is going to talk and review before we decide what we are going to go forward with.

### 3. Update on SPLOST Projects

Mr. Wilson stated there are currently 3-4 remaining large SPLOST Projects. Rosenwald is under construction. Mr. Wilson stated that Ms. Irizarry has sent out a "Doodle Poll" to set a date for Rosenwald groundbreaking. He asked the Board to respond so that we can get this scheduled.

Mr. Wilson then stated that on the meeting this evening is a Resolution to declare the infrastructure project from the 2008 SPLOST infeasible and moving those funds to the 2016 SPLOST for debt service. This project was for the North Hill Street Infrastructure. The Water Authority has tried for five years to make that project feasible. We have tried with CDBG grants and other avenues, but essentially that project has been placed in low priority at this time by the Water Authority.

Mr. Wilson stated that as discussed during the retreat last year, we can utilize those funds for the 2016 SPLOST projects and there are two ways this can be done. He then explained the two ways that the funds could be reappropriated to the Board.

Commissioner Flowers-Taylor then expressed her concerns regarding the proposed funds.

Mr. Wilson advised he would arrange a conference call with Commissioner Flowers-Taylor and King and Spalding, to better explain the process.

Chairman Davis then asked that Commissioner Flowers-Taylor and Mr. Wilson talk off-line because he feels there is an issue of communication between the ZOOM and what Mr. Wilson is trying to do.

Commissioner Johnson stated that she understands what is being said but she would also like to be included in on the conversation with Mr. Wilson, Mr. Floyd and Commissioner Flowers-Taylor.

Chairman Davis then stated that at one of the earlier meetings it was determined that we would need an additional \$8 million to complete all of the outstanding projects on the 2016 SPLOST. He asked that Mr. Wilson check that number and make sure that is what we need to try to find funding for.

Mr. Wilson stated that \$8 million will build the gymnasium as estimated by Paragon a year ago, depending on cost, plus we have \$4.6 million and the pool is supposed to be somewhere around \$7.6 million and that as currently configured.

Chairman Davis then stated that there was approximately \$500,000 left over from the bonded funding for Fairmont and Rosenwald. That is why he is asking for an accounting on the \$8 million to make sure everyone is talking off the same number. If we are looking for money, exactly how much money are we looking for?

Mr. Wilson stated that he want's to make clear to everyone that the Aquatic Center that is currently being designed and engineered is a brick building with two pools. That is it, nothing else and that is \$7.6-\$7.8 million.

Commissioner Flowers-Taylor then added that whatever the number is that Mr. Wilson presents to the Board this evening is not going to be a "locked in" number as we still have not gotten the quotes on the splash pads and the fun pool.

#### 4. Discuss FY 2022 Budget Review Schedule

Mr. Wilson then asked the Board if we want to conduct Budget Review next week as outlined on the 2022 Budget Calendar.

Consensus of the Board is to hold the Budget Review as scheduled.

Chairman Davis stated that the Board has agreed that Roads is the #1 issue currently facing our County. In this year's budget, there was no funding for resurfacing of roads and there hasn't been a line item in the budget for the last 5-

10 years. Next week, we have agreed to go through the Budget and it is his understanding there will be no resurfacing money included in that budget. Our way of handing this is to put the funding into a SPLOST or TSPLOST and ask the citizens give additional funding for what is a total responsibility of this governing body. It has taken us years to get into this situation and we can get out of it overnight. There is approximately 500 miles of surfaced right-of-way in Spalding County that need to be resurfaced over a period of time. We have depended on LMIG for the resurfacing that has been done over the last 5-10 years.

Chairman Davis then asked for a consensus of the Board that a line item be created in the 2022 Budget for a total of \$900,000 to be used for resurfacing 5 miles (1% of the total county mileage) at \$180,000 mile. He then advised that in the 2023 budget he would like that amount to be increased from 5 miles to 8 miles. The Board agreed there should be a line item in the 2022 budget created for Resurfacing, they would not commit to an amount until the budget could be reviewed.

5. Commissioner Flowers-Taylor would like to discuss employing a Mandated Code Enforcement Officer to handle traffic violations.

Mr. Wilson stated that he sent out an email to the Board this morning and those in attendance have a hard copy of the information. There are three basic scenarios that can occur with hiring a Code Enforcement Officer and it depends on whether it is an internal candidate versus an external candidate. If it is an external candidate with no "POST" certification, it's about 23-24 weeks before we can use that officer and the Sheriff has to approve that officer. If the applicant does have certification, then they are required to complete a 12-week field training officer program through the Sheriff's Office and the officer still has to be approved by the Sheriff's Office to begin with.

The third alternative is if we hire someone in house, if they haven't attended the field training then they will be required to go to it, but if it is a regular deputy currently out on the road that decides to come to work for us then they can do it immediately, but it must be approved by the Sheriff. Probably, this is not something that is going to happen overnight, it is going to take a minimum of 12 weeks or possibly 23 or more weeks, which puts you way into next year's budget.

Mr. Wilson then advised that in August of 2020 when this position was advertised, we had 15 applicants, 3 were mandated. Mr. Arnold resigned on 12/21/2020 and they interviewed the mandated candidate on 12/4/2020 and at that time the board decided to go with Charles Abbott for Code Enforcement. In 2019, when the position was advertised, we had 25 applicants, only 2 were post certified. We hired Brandon Clements and he had to go through FTO so it just depends on who applies.

Commissioner Flowers-Taylor stated that she did request a Mandated Officer and it is her understanding that just before Mr. Neville and Ms. Irizarry were ready to hire a mandated officer, we decided to go with Charles Abbott. She then stated that her reasoning behind this is that all the current Commissioners are having code enforcement issues in their district and the fact that we are so



far behind and we have so much for them to do. The code enforcement officers are currently having to go out to the offender's houses with no back up. They don't have any police powers and if we had a post certified officer, that individual could come out and serve the citation or assist the code enforcement officer should the need arise.

6. Chairman Davis requests an Executive Session to discuss or deliberate on the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a county officer or employee as provided in O.C.G.A. § 50-14-3(6);

***Chairman Davis advised that since there was not a quorum and this matter needed to be discussed with a majority of the Board being present. This item would not be addressed this morning.***

#### **Commissioner Comments:**

Commissioner Johnson stated that she would ask that as soon as the American Rescue Funds become available and we know how they can be spent that the Board be advise. So we will know what we can use them for.

Commissioner Davis asked Mr. Wilson to let Sheriff Dix know that he would like for him to review the possibility of a 4-Way Stop at the intersection of Bentgrass and Del Webb. Thanked the local legislators for coming down last week and spending time with us. Vaccines, we started out in January where we had a high demand and a low supply rate. We now have a supply and demand meeting and anyone who wants a vaccination should be able to get it within the next month or so. He stated we are currently at 25-30% of our County being vaccinated and to reach herd immunity we have to be at 75%. He wants to encourage everyone who can get a vaccination to please do so. He would encourage everyone who has gotten or is getting a vaccination to pass on to their coworkers, friends and family to get vaccinated. He is aware that many have issues with getting vaccinated, but we have citizens in Spalding County dying every week from COVID, we need to take action to do something about this.

### **XIII. ADJOURNMENT**

***Motion/Second by Johnson/Davis to adjourn the meeting at 10:49 a.m. Motion carried unanimously by all.***