

After Agenda

**Board of Commissioners of Spalding County
Work Session
Tuesday, May 24, 2022
8:30AM
Room 108, Spalding County Annex Building**

The Spalding County Board of Commissioners held their Extraordinary Session on Tuesday, May 24, 2022, in Room 108 of the Spalding County Annex Building, beginning at 8:30 a.m. with Chairman Clay Davis presiding. Commissioners James Dutton, Rita Johnson, Ryan Bowlden and Gwen Flowers-Taylor were present for the meeting. Also present were County Manager, Dr. Steve Ledbetter, County Attorney, Stephanie Windham and County Clerk, Kathy Gibson 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

The Invocation was delivered by Commissioner James Dutton, District #2.

III. PLEDGE TO FLAG

Commissioner Ryan Bowlden, District #4, led the Pledge to the Flag.

IV. AGENDA ITEMS

1. Consider an amendment to the Spalding County Code of Ordinances, Division I - Laws of Local Application, Part II - Governing Administration - Chapter 12 - Code of Ethics; repealing conflicting ordinances and parts thereof; and restating the code as modified by this Ordinance.

Stephanie Windham, County Attorney, advised that a lot of time had been spent in work sessions and discussions going back as much as two years. In January, 2021 she had prepared a memorandum to the Board regarding the Ethics Ordinance with revisions and additions to the Ethics Ordinance. The Ethics Ordinance included for review this morning is completely restated. It includes a review of the surrounding Counties ethics ordinances and implementation of some of their language into the document.

Ms. Windham then stated that at Dr. Ledbetter's request she had split out a new section, Chapter 12A, taking the Conflict-of-Interest section and making it an entirely new chapter separate and apart from the restated Ethics Ordinance. Ms. Windham then advised that if there are any questions or matters you would like to dive deeper into, we can certainly do that.

The document was reviewed by the Board and the Board discussed changes they would like to see and additional items they would like to have added to the document. Ms. Windham thanked the Board for taking the time today to review this document and for their input and suggested changes. She stated

that she would make the adjustments and revisions requested and bring the Ordinance back to the Board at a later time

2. Consider a Resolution amending the Spalding County Code of Ordinances, Division I - Laws of Local Application, Part II - Governing Administration - Chapter 2 - Elections; Section 2.1 - Board established districts to add a section (p).

Ms. Windham then asked that the Board disregard everything in the Ordinance with the exception of section (p) as the Ordinance presented represents the entire ordinance as it currently exists, and the only changes being made is the addition of this section.

Commissioner Flowers-Taylor asked if our ordinance is reflective of the State Ordinance.

Ms. Windham advised that based on redistricting, the Ordinance probably needs updating; however, the matter for consideration this morning is the addition of section (p).

Dr. Ledbetter advised that he has been in conversations with both Kim Slaughter at the Board of Elections and Ms. Windham regarding the update to all of the sections.

Commissioner Flowers-Taylor then asked if in terms of the election have all the maps been redrawn and individuals positioned in their new districts?

Dr. Ledbetter advised that “yes they have.”

Chairman Davis stated that the changes are effective January 1, 2023.

Dr. Ledbetter stated that all of the GIS data has been updated and all of the information has been loaded to all of the computers, so everyone will be voting in the correct district.

Chairman Davis stated that should one of the Board members be removed or for some reason is no longer able to participate on the Board. The way we do it now, local legislators would go to the Governor and the Governor would select the replacement. Henry County has a different model to this, and he wants the Board to be able to select that replacement. The key issue is the way it is set up is whoever’s party is represented that the person vacating the seat, then the Republican would provide us names and the four remaining board members would vote on the replacement. If it is a 2-2 vote, then the Acting Chairman would make the final vote.

Ms. Windham advised that should the Board have a 2-2 vote then it would be considered as no action and the Chair would make the final decision.

Chairman Davis then stated that he believes the Board will know or at least be familiar with whomever the party submits. He doesn’t believe the party would submit the name of someone that we don’t know or have never seen.

Commissioner Johnson stated that she feels that each member of the Board was elected by District, so if something happens to the representative of a District then we are obligated to the people of the district that voted that individual to the Board.

Ms. Windham stated that a qualified successor would have to come from the district in which the vacancy occurred.

Commissioner Flowers-Taylor then asked why we couldn't just have a special election?

Ms. Windham advised that the situation we were in when Commissioner Hawbaker was removed from office was that we couldn't have a Special Election because he was suspended. His suspension was temporary so we couldn't have an election to replace him because his seat wasn't vacated. So, you couldn't call for a Special Election because the seat is still filled. It was simply filled by someone who could not attend any meetings. Then the Governor, after a significant period of time, suspended him and then it took a while after that for the Governor to appoint a temporary person to fill that position. So, the State Law takes a long time as we saw in this case and the Law states that you have to do it this way unless your County Ordinance provides another way for it to be handled.

Commissioner Flowers-Taylor stated that what is being presented is what Henry County does. What do the other surrounding Counties do in a situation like this?

Dr. Ledbetter stated that out of all the Ordinances he reviewed regarding this matter, this was the one he was most comfortable with.

Chairman Davis then stated that we are not voting on this today; however, he does hope to vote on it during the first meeting in June. So, if you have problem with it, now is the time to talk about it.

Commissioner Flowers-Taylor stated that she feels there is a problem the way it is worded. She does agree that if the vacancy involved was filled by a Democrat, then the Democratic Party should make some recommendations to the Board; however, if you have a 2-2 vote and there is no action, then she doesn't feel comfortable with the Chairperson or the acting Chairperson making the decision because you just deleted the purpose of having the vote.

Chairman Davis disagreed, he reiterated that whomever it is he is confident that we will know the person and know if he is a team player that we can work with.

Ms. Windham stated that the Ordinance states that the party involved will send a list of candidates to the Board.

Commissioner Johnson stated that she is comfortable, that if something happens to her and she is no longer able to fulfill her duties, let the Democratic Party fill her seat.

Dr. Ledbetter stated that the way this is worded is that the only options to fill the seat would come from the Party represented by the seat that was vacated. So, the Board would only be selecting from the individuals submitted for consideration by the Republican or Democratic Party depending on the Party represented by the seat that was vacated. That would be the list that the Board would choose from, if there is a split of 2-2 on the persons being discussed, then the Chair or Acting Chair would be the one to pick from the list provided by the Party representing the vacant seat.

Commissioner Flowers-Taylor stated that she has a problem should there be a 2-2 vote with the Chairperson or Acting Chair having the power to appoint to that seat.

Commissioner Dutton stated that it will still be from the list provided by the Party.

Ms. Windham stated that she would be in favor of whatever means the Board chooses to do it themselves, but you can't rely on an election when you have a seat that is temporarily vacated.

Chairman Davis stated that he wants to reduce the time so that within a month or two we have a new person sitting on the Board. There will be a Special Election.

Commissioner Flowers-Taylor stated that the way she is looking at it is if a seat for a Democrat were to become vacant then the Republicans would still choose the replacement.

Commissioner Dutton state that it would only be from the list provided by the Party represented by that seat.

Commissioner Flowers-Taylor stated that she understands what everyone is saying, but she doesn't feel that it is fair, if there is a Democratic seat that becomes empty for the majority of the Board which is Republican to pick that Democratic Candidate.

Commissioner Johnson stated that although she understands what Commissioner Flowers-Taylor is saying, whomever sits here would be a temporary selection, because they have to go through an election process.

Commissioner Flowers-Taylor then added that it could be 360 days.

Commissioner Dutton stated that if it is less than a year remaining in the term, the individual would finish the balance of that term, if it is more than a year, they would be temporary until followed by an election per OCGA that can be had.

Ms. Windham then read what the section says in (p)(3b). "In the event that a temporary vacancy exceeds 90 days, a Special Election shall be held.

Commissioner Dutton then stated that addresses temporary vacancies, but (p)(2) states that "at the time of vacancy if there is more than 360 days until

the next General Election” then there would be an election as fast as possible. In the meantime, there is someone filing that seat.

Dr. Ledbetter then stated that the temporary appointment is for non-vacated seats. So, Commissioner Hawbaker’s case was the example, so we would have been a 4 Commission Board for an extended period of time, until Commissioner Hawbaker was removed. This affords this Board the opportunity to immediately fill that temporary vacancy until the seat becomes vacated, then once it is vacated there can be a Special Election. Under the current ordinance we had to go to the Governor to make that temporary appointment which took a while. This affords local representatives to manage the seats on this Board on a temporary basis.

Commissioner Johnson stated that Fayette County had a commissioner who passed, and she would like to know how Fayette County handled that vacancy.

Ms. Windham stated that she looked up Fayette County’s ordinance and it reads that “if a vacancy occurs on the Board for any reason other than the expiration of the term of office, it shall be filled by a Special Election.” They are not addressing the situation that we found ourselves in.

Commissioner Flowers-Taylor then stated that this could be the answer to our immediate problem and if someone has a problem with it then we can go back and make a change. For the purpose of us being able to settle, if we can get beyond what happened to Commissioner Hawbaker, then she is comfortable with it.

Commissioner Dutton stated that maybe we can add to the ordinance that if there is a 4-0 vote on the candidates presented by the affected party that we can ask them to go back and resubmit another individual for consideration. There were several who agreed with this condition, but there was not a consensus.

Chairman Davis stated that this Ordinance will be placed on the Agenda for first reading at the June 6th Regular Meeting.

3. Consider discussion on the Aquatic Center and the bids that were returned for the Center.

Ms. Windham then exited the meeting.

Dr. Ledbetter stated that the 2016 SPLOST Report Card highlights a budget number of \$4,690,000 for the Aquatic Center. We have expended \$492,798.50 on engineering activity to prepare for the construction of the Aquatic Center which leaves \$4,197,201.50 for use toward construction.

The County has received \$6,478,138 to date for our ARPA funds, which represents ½ of the funds we will receive. The total amount of ARPA funds are \$12,956,276. Of these funds, the Treasury Department has afforded us the opportunity to move \$10 million into our General Fund as lost revenue

due to the COVID 19 Pandemic. Staff's recommendation should the Board decide to move forward with the construction of the Aquatic Center is to use \$5,874,048.50 from the ARPA funds which would leave \$4,125,951.50 in ARPA funds within the General Fund and an \$2,956,276 in a restricted ARPA account to be used toward water, sewer and broadband.

Why is this important? The low bid for the Spalding County Aquatic Center was a total of \$10,072,000. This includes the alternatives that were requested such as bleachers, staining and sealing the concrete floors, additional parking, the drop off area and the landscaping. The \$10 million that represents the total build out of the Aquatic Center is substantially more than what was budgeted. Again, staff's recommendation, should we move forward with the Aquatic Center, is to use the \$5,874,048.50 for the construction of the facility.

Commissioner Johnson stated there had been discussions of possible partnerships with other organizations that would contribute to the Aquatic Center. She asked if that is something the other members on the Board would like to pursue?

Chairman Davis stated his thoughts would be to not hold up construction on the pool trying to find partnerships. It has been a while and it will be a while before it is completed. He would like to go ahead and authorize the \$5,874,048.50 from the ARPA funds that we need to proceed with the project and in the meantime try to get partnerships as well. We still have \$2 million to use on the original projects, water, sewer, and broadband.

Commissioner Flowers-Taylor stated that her concern is that the people in the County voted for a \$4.9 million Aquatic Center and we're going to take an additional \$6 million to finish this. The average person is going to say that there is a lot of stuff that we need done in the County, so that is her problem. This project has turned into twice what the taxpayers voted for. Are we being good stewards of these funds? She agrees that we should finish it.

Chairman Davis stated that when the members of the Board visited the Aquatic Center in Carrollton, we all said that's what we want. At that time, TJ informed us that was not what was on the SPLOST for consideration, and we said that the Griffin Gators thought they were getting something along the lines of Carrollton, and we started moving towards that model. He believes that most of the citizens understand the difference between the "fun pool" at \$4 million and the competition pool which is what a lot of people thought we were getting. So, it's not a bait and switch, it is simply that people thought we were getting Carrollton, when that was not what we were thinking because we didn't have all the data.

Commissioner Dutton then stated that SPLOST projects have to be completed unless they are deemed infeasible. We see before us that it is not. Second, what the people voted on was a \$1.7 million project that was Fairmont and Heritage Park. We spent more than \$1.7 million just at Fairmont and now we're spending significantly more at Heritage. Should we do that, yes, that is the right thing to do. That is not what they voted for in

the SPLOST, it is over and above, but it is still the right thing to do. Here we are with a way to finish this last project, it will cost a lot more, but they have all cost a lot more. Did the voters understand what they were getting? Is what we should be getting? Yes.

If we don't follow up with what they were promised, then they are never going to vote another SPLOST in. Here we are with a way to finish this strong, show the voters what we have done and that we are giving them everything. We have done all of the projects well and brought all of the projects to completion and we have gone above and beyond on all of them. Trust us again on the next SPLOST. Here we are with the opportunity to do that. You can't now say "wait a minute it's going over budget." They have all gone over budget.

Commissioner Flowers-Taylor then stated that we are not obligated to complete a pay-as-you-go project if we are not able to finish it with the funding available through the SPLOST. She would like to know how much has been allocated to the Fairmont/Heritage Park Projects. These were bonded projects. She stated that her struggle with us taking this huge chunk of money is that it could be used to fix some of the problems at the jail. We are doing a "want" instead of a "need" when the Sheriff's Office has told us that we need to do something.

Commissioner Johnson then stated that she has to agree with Commissioner Dutton on this. Do we want to spend this money on this? No. Are we obligated to spend this money to complete this project? Yes. This is about trust. At the end of the day, we have gone well above and beyond what the numbers were on all of the projects done. We are going to have to do it with this one too to live up to the expectations and the trust when we vacate these seats. We've got the money, and it was a blessing that we got the money. We need to spend the money on this and with the additional money that is coming we need to think about how those funds are to be spent.

Chairman Davis advised that at the June meeting we will be voting on reallocating these funds. He feels Commissioner Gwen Flowers-Taylor's concerns are valid, but this is what we need to do.

4. Final review of the FY2023 Budget and question and answers.

Commissioner Flowers-Taylor then asked what the fund balance would be for the Fire Fund.

Commissioner Dutton then asked if the Public Defenders Office had asked for additional funding?

Chairman Davis stated this is the Board's opportunity to ask any questions they may have regarding the FY23 Budget.

Commissioner Flowers-Taylor then asked about the new positions for Building Inspectors and Building Officials, didn't we already have them covered in the budget this past year?

Dr. Ledbetter advised they were in the budget for this last year but as contract employees. We are showing these as new positions because we are looking to bring them back in house.

Commissioner Dutton left the meeting at 11:00 a.m. and Commissioner Johnson left the meeting at 11:02 a.m.

Dr. Ledbetter then answered all of the questions that were asked regarding the budget.

Chairman Davis stated that the first Budget Hearing for FY23 is scheduled for Monday night, June 6th.

V. ADJOURNMENT

Motion/Second by Flowers-Taylor/Bowlden to adjourn the meeting at 11:11 a.m. Motion carried unanimously by all.