

BOARD OF COUNTY COMMISSIONERS

Eric K. Maxwell, Chairman
Randy Ognio, Vice Chairman
Steve Brown
Charles W. Oddo
Charles D. Rousseau



FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator
Dennis A. Davenport, County Attorney
Tameca P. White, County Clerk
Marlena Edwards, Deputy County Clerk

140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

MINUTES Special Called

January 31, 2018
1:00 p.m.

Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2nd and 4th Thursday of each month at 6:30 p.m.

Call to Order

Vice Chairman Randy Ognio called the January 31, 2018 Special Called meeting to order at 1:05 p.m.
A quorum of the Board was present. Chairman Eric Maxwell was absent.

Acceptance of Agenda

Commissioner Charles Oddo moved to approve the agenda as written. Commissioner Charles Rousseau seconded.

Commissioner Steve Brown stated that the meeting was totally unnecessary and he wanted it stated for the record.

The motion passed 4-0.

1. Consideration of Vice Chairman Randy Ognio's request to address access to personnel files by members of the Board of Commissioners.

Vice Chairman Ognio stated that the agenda item was considering commissioner's access to personnel files and that the meeting would be limited to only discuss this topic.

Commissioner Brown asked Vice Chairman Ognio if he was going to censor the discussion.

Vice Chairman Ognio stated no. He stated that it would be limited to the agenda topic that was on the agenda.

Commissioner Brown stated that the Board could say what was on their minds.

Vice Chairman Ognio stated that he was chairing the meeting and that he would control the meeting.

Commissioner Brown asked Vice Chairman Ognio to define the bounds of what would apply to this agenda item.

Vice Chairman Ognio stated that this agenda item was all that could be discussed.

Commissioner Brown asked if the Board could discuss what brought the meeting about.

Vice Chairman Ognio stated no. He stated that if Commissioner Brown wanted to have that discussion he could put it on an agenda.

Vice Chairman Ognio stated that he did not think the Board should pick and choose which policies to follow.

Vice Chairman Ognio moved that the Board of Commissioners follow all 108 policies and to have the county attorney make sure there are no conflicts with the policy pertaining to access to personnel files to bring back to the Board, but that the Board would follow the policies at hand.

Commissioner Brown asked if it would apply to the County Administrator as well.

Vice Chairman Ognio stated that he was only referring to the Commissioners.

Commissioner Brown asked if the policies and procedures do or do not apply to the County Administrator.

Vice Chairman Ognio stated that it was another subject and if Commissioner Brown wanted to add it to another agenda for discussion he could do so.

Commissioner Brown asked for a friendly amendment to include the County Administrator to the motion.

Vice Chairman Ognio stated that he would need to look into the County Administrator's contract.

Commissioner Rousseau called point of order. He reminded the Board that there was a motion on the floor that had not been properly seconded for discussion.

Commissioner Oddo seconded.

Vice Chairman Ognio stated that as a member of the Board of Commissioners he would rather see the Board lead by example instead of set up policies that don't apply to the Board. He stated that the Board should not be exempt from the policies. He stated that it was in no way to be construed to limit access to information and personnel files. He stated that there was a process to obtain that information.

Commissioner Brown stated that he had a phone conversation with Chairman Maxwell and he admitted that he had some knowledge of what was going on in the 911 call center. He asked Vice Chairman Ognio if he had knowledge of what was going on.

Vice Chairman Ognio stated that he did not recall having knowledge or at what point he had knowledge. He stated that he now had knowledge of the situation.

Commissioner Oddo stated that a motion was made and the discussion should be regarding that item.

Commissioner Brown read the following statement into the record:

In government, you have officials and top-ranking staff who attempt to shape government in their image, and sometimes that image is a poor reflection on government itself.

I am not going to be intimidated from doing my job of representing the best interests of our citizens and promoting an open and fair government. I have always and will continue to deliver pertinent government documents that are applicable to state open records law to our citizens, the news media and anyone else who may desire a copy.

As for this abruptly called special meeting, every elected official in Georgia is properly instructed about open meetings and open records law through mandated newly elected officials training and ACCG certification classes.

That fact that we actually paid an attorney to explain open records law after our taxpayers have spent hundreds, if not thousands, of dollars for us to sit in training classes and have it explained to us is inexcusable. We either have members swimming in a pool of ignorance or purposefully attempting to obstruct the news media from gaining access to documents reflecting government misconduct.

Everything I did was in accordance with state law, the attorney's opinion and all the training we have received confirmed this. I have had to deal with Commissioner Oddo's demands to censor my letters to the editor in the past and I said, "No." I suggest consulting the Georgia First Amendment Foundation for further education.

I am going to tell Vice Chairman Ognio and Commissioner Oddo today that I am not going to give-in on your attempts to intimidate and deflect regarding what is going on behind the scenes in government. This meeting today is nothing but an attempt to further obstruct the effort to get information out to the public regarding situations that every taxpayer needs to know.

The average person has no idea just how difficult is to be an honest person trying to promote honesty in government.

All I can do is speculate as to why critical information related to our local government is withheld from people like Commissioner Rousseau and myself. My speculation is there a deep ceded fear the two of us will not stand still and let the abuse happen and we are not afraid to demand transparency and an unprejudiced, objective resolution.

Uninhibited power in government at all levels is the breeding agent for corruption and abuse. Nothing kills our republican democracies like uninhibited power and the lack of accountability.

I have distributed to everyone... in the media here, and I have copies if you would like to see these, I would love for you to come pick one up...I have distributed to everyone here...y'all have this. It is the document that I gave you...two government documents entitled "employee notice." They are the same form, but are for two different employees. One form labeled...and I personally labeled these... "FC Human Resources" is a document that meets all criteria under open records law and had been distributed for open records requests by Human Resources and the County Clerk's Office numerous time. I applaud both departments for adhering to the state law and doing your duty accordingly.

The second document labeled "Steve Brown" is also a document that meets all criteria under the open records law and I distributed it publicly.

There is no difference. Both documents are publicly eligible and both are acknowledgements of some of the horrendous behavior that our employees have had to endure, behavior and other actions that were purposefully withheld from some of the commissioners.

I am deeply concerned that we have government officials actively engaged in cover-ups of government abuse. We can prove that vital information has been purposefully withheld from certain county commissioners, the highest-ranking officials in the county government, the ones who have equal authority and responsibility, all of whom must receive equal communication from the County Administrator.

No more selective justice in Fayette County. No more obstruction and no more dereliction of duties.

All commissioners must have access to government communication and records. We must be able to express ourselves without fear of retribution.

He continued that he was wondering why the one marked "Steve Brown" was not given out when the open records request was made for what was going on in the 911 call center crisis. Why was the document withheld and why did Steve Brown have to go to Human Resources department and ask to see if there was such a document that existed in the employee file? He stated that was a serious question. He referenced the resolution in the back of the room. He stated it was a value statement that he wrote in 2013 and the Board had voted on every year and he and Commissioner Rousseau have expressed grave concern to whether the Board was adhering to that or not. He stated that one was honesty and integrity and the other concern was to treat everyone like

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you would like to be treated. He stated that the things he read that the employees at 911 had to endure...he would not want to be treated that way. He stated that it was inexcusable and should be publicly acknowledged. He stated that he did not know why the policy and procedures of the county did not apply to the county administrator. He stated that it was documented by the county administrator that the policies did not apply to him.

Vice Chairman Ognio stated that this meeting was not about limiting access to the information in the personnel files. He stated that there was a process in the policy on how to obtain the information. He stated that the Human Resource (HR) department had the responsibility to make sure that certain information in the files were confidential. He stated that there was a process and the open records was that process to be sure that certain information was redacted and not accidentally released to the public. He stated that the other issue was to make sure that nothing was added to the files. He stated that was highly wrong and it did not matter if it was a post-it note or anything else. He stated that things should not be added unless it was done through the HR department using the proper procedure. He stated that he was also concerned with someone accessing the file in a room alone because, with technology it would be easy for someone to take pictures of documents. He stated that these were the issues the HR director had to deal with. He stated that having someone go up and request the files from HR staff, he was sure, was kind of intimidating for that employee. He stated that the Board should lead by example and follow the policies and be held to the same standard that others are being held. He stated that the Board should be willing to abide by policies.

Commissioner Brown stated that he wished the county administrator would abide by the policies. He stated that if any supervisor, department head or supervisor could take a photo of a file no matter what the policy stated. He stated that he was tired of the deflection, the intimidating tactics and that all the documents were going to be put out there. He stated that there would be a river of documents and people will know what the government was doing. He stated that he would not be intimidated.

Vice Chairman Ognio stated that he was not trying to intimidate Commissioner Brown and that he was pointing out that he did not follow policy.

Commissioner Rousseau stated that the Board needed to be careful because it was a complicated matter. He stated that Commissioner Brown had "somewhat of a valid point" when talking about the Board following the rules at the highest level, then those under the Board should follow them as well. He stated that was legit. He stated that the other part of the equation was that there needed to be some parameters. He stated that he would like to see some recommendations made with specific steps and standards made, if the Board was going to go this route. He stated that the Board had entered into an organizational crisis of some sort. He stated that the Board had tremendous latitude as elected officials as outlined in the county attorney's memorandum. He stated that with that it comes a high degree of responsibility in terms of how the Board conducted themselves. He stated that at the highest level, elected officials may need to access information and there was a procedure for that. He stated that the purpose today was to keep the Board from acting irresponsibly or rogue and there should be safe guards in place. He stated that the Board needed to be deliberate and take time and bring the issues in a systematic fashion. He stated that the Board can have rules, but if there were no repercussions for acting outside the rules, then it was not worth the paper written on. He stated that it was wise to have the county administrator and county attorney under the policies. He stated that the Board needed to be careful because the county administrator had a contract that was different from the policies associated with this booklet. He stated that the Board may want to revise the county administrator's contract. He stated that the Board had to be careful to say that the Board would abide by the policies "as they should", and then say "no" for a contract employee. He stated that having the Board follow the policies could have some ramifications. He asked that the county attorney if that statement was correct.

Mr. Davenport stated that it was correct.

Commissioner Rousseau stated that there was an issue that warranted attention and to anticipate the unintended consequences and then come back to view the matter in a more comprehensive fashion. He stated that he was prepared to vote to have staff and the county attorney to come back with some recommendations.

Commissioner Oddo stated that he made no apologies for his time as chairman. He stated that he was taking over at a time when there were hurt feelings that he believed had carried over. He stated that he did the best he could and the county accomplished some very fine things. He stated that the only item on the agenda was whether or not the commissioners should have unfettered access to personnel files. He stated that there were people, who aren't employees of the county, that have personnel files where they work, who would be surprised to find out that anyone, for any reason was going through their files, without their knowledge to look for information. He stated that commissioners should not have the right to go into any file, unfettered without anyone's knowledge to look for information because it was confidential and could be legally confidential. He stated that he had no heartburn looking at this and coming up with procedures that allowed commissioners to go through a process to look for information they feel was important. He stated that the Board should lead by example.

Commissioner Brown stated that the state open records law gives the Board that right. He stated that the information was not confidential. He stated that there were certain things that are exempt and delineated in the county attorney's opinion. He stated that the documents that he had and that he distributed to the press had none of the exempted material in the forms. He stated that the elected officials are in charge of representing the direct interest of the citizens. He stated that he could not find the record that he was asking for from human resources in the pile he was given. He stated that should worry the Board. He stated that he had to go to human resource to see if the file existed. He stated that the Human Resource Director Lewis Patterson was out for lunch. He stated that he asked the human resource staff for a file and it was given to him. He stated that the asked where he could view the file and she directed him to where he could view the file. He stated that he opened the file and there was the document that was not in the human resource batch that was subject to the open records request. He stated that he then asked staff to make five copies and he wrote on one of the copies "I have taken four copies of this form with me." He stated that he signed it and put the date on the back of it and asked staff to place it in the file so someone would know he accessed the record. He stated that if the Board was going to say that searching out the documents was wrong, then there was no need for government.

Vice Chairman Ognio stated that Commissioner Brown admitted to adding something to the personnel file.

Commissioner Brown that he did it as a professional addition.

Vice Chairman Ognio stated that it was illegal and that he had no right to add anything to a personnel file.

Commissioner Brown stated that if acknowledging that he accessed a record was criminal behavior, then put the cuffs on him.

Vice Chairman Ognio read a letter from Dawn Oparah into the record:

My Dear Honorable County Commissioners,

I would have liked to come this afternoon to deliver my remarks in person but because of the called nature of this meeting I could not get out of my previous planned engagements. However, because of the seriousness nature of what is to be discussed on the agenda I felt compelled to put in writing my thoughts and concerns as a citizen for the public record.

In my preparation for making remarks, I spoke with one of the newer school board member to ascertain what their practices were pertaining to individually gaining access to the personnel file of School Board employees. He said they could not as individual look at the personnel files of any employee. He recommended I talk with the HR director regarding specific Policy. I called and spoke to the HR director and she shared with me why the board members could not individually ask for and gain access to an individual employee's personnel file. It had a great deal to do with privacy and rules and laws. If there is a reason for board members to see personnel file because of pending situation it is done with staff and as a board and generally the school board attorney is called to advise. She did however say an employee can give permission for someone to see their personnel file and if files are court subpoenaed that can be shared with consultation with the school board's attorney about what would need to be redacted. She also referred me to a website about best practices for managing confidential records that stated the following:

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Confidential Files

You should always treat personnel files just like any other private documents within the company. Normally personnel records are kept within a locked file cabinet that only certain people have access to. You should make sure that these files are only available to the people that have a legitimate and valid reason to look at the files.

As a suggestion, you may want to set up a [company policy](#) that the only people that are allowed to access an employee's personnel record are the human resources manager, the employee's supervisor or manager, and the employee himself. By setting up such a policy, you will protect the confidentiality of these files, your [employee's privacy](#) and also limit the opportunities for false documents to get into the files. In addition, by having a policy in place, you have the right to discipline anyone that breaks the policy.

Since, like everything else these days, employee personnel files are likely to be available in electronic form, your policy should also address who has access to the databases where employee records are kept. You should limit electronic access to those people and groups listed above.

I then called the County Manager and asked him to send me a copy of the current county policy on how they handle discipline and grievances, which he did. I also called a county commissioner to ask a few questions to help me understand how far the role of a county commissioner goes. He explained that the Board of Commissioners has the right to see any record in the county, including personnel records.

While I agree with the right to review and or see all records I think how that right is exercised is very important for the protection of the integrity of the Board of Commissioners individually and collectively as to avoid risk or liability. I believe there should be a written policy in place that states the circumstances under which the Board of Commission may gain access to personnel records. I think if it is important enough for one board member to review a personnel file that the whole Board of Commissioners should be informed and jointly agree that an investigation is merited. I don't think **any one** Board of Commission member should be allowed to unilaterally decide to look at the personnel file of an employee. It erodes the trust we put in the process that is in place for staff to handle personnel matters, it crosses lines of authority, it also sets up a potential liability that could incur a law suit should an individual run fowl of proper procedures. I think such a written policy is for the protection of the Board of Commissioners, employees, the managing staff and the citizens of Fayette County at large.

Thank you so much.

Very respectfully submitted,

Dawn Oparah

Commissioner Brown stated that if one person, as elected official, could not look at government documents because a majority said, no, then you have thrown democracy out the window and transparent government and created the rule of the oppressors.

Commissioner Oddo stated that the discussion was not asking that commissioners could not see government documents. He stated that it was about personnel documents, some of which are sensitive and not permitted and the process required someone look at them and redact them before the Board becomes the arbiter of what can go out or not go out. He stated that it was a simple request.

Commissioner Brown stated that the arbiter of what document could leave the building was the state law of Georgia; state open record law.

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Commissioner Rousseau stated that there was a reason there was a separation of power. He stated that it was a safe guard. He stated that the safe guards are in place so that the Board does not act independently on its own wishes and whims. He stated that he cautioned so that the Board did not make decisions that run into those separations and have staff bring back some things to safe guard abuse of right and freedom of information and the Board's responsibility to have access to the information.

Commissioner Brown stated that the video of this meeting was going to be used by every civics class in every college, university and high school in the state. He stated that he would personally send it to them.

Vice Chairman Ognio stated that Commissioner Brown mentioned the open records, which was an important factor. He stated that if he viewed a personnel file and wanted to take a copy, he was not trained in what to redact and not to redact. He stated that he was sure Commissioner Brown would say he was trained in it, because he took a document, made copies of it and made public record of it without going through the process of the open records that he continued bringing up. He stated that he looked at the attorney's opinion. He stated that the citizens are at the top of the organizational chart. He asked should they have access to those files without redaction. He stated no.

Commissioner Brown interrupted with, "yes."

Commissioner Rousseau called for point of order.

Vice Chairman Ognio continued that the Board had always followed the policies without a vote and it was sad that a vote was needed. He stated that he had no problem with the county attorney and the human resource director reviewing the contract to make sure the administrator followed the policies. He stated that he did have a problem if the Board was not willing to vote to follow the same policies that are expected of everyone else.

Commissioner Brown stated that he agreed with Commissioner Rousseau. He stated that he believed that was something that should be done. He stated that there was nothing in the policy that he did not follow.

Vice Chairman Ognio stated that he had no reason to vote against it then.

Commissioner Brown stated that he asked Vice Chairman Ognio to amend the motion to include the county administrator and if he could not amend the motion, then he could not vote for it.

Vice Chairman Ognio stated that he could not amend the motion because the county administrator was a contract employee.

County Administrator Steve Rapson stated that he had followed the policies since day one. He stated that he was shocked that anyone thought that he had not followed the policies. He stated that he had no problem amending his contract because he had always followed the policies. He stated that the first time it ever came to light was when he had a wreck, two years ago and he still subjected himself to the policy and voluntarily disciplined himself accordantly.

Vice Chairman Ognio amended the motion to include the county administrator.

Commissioner Rousseau stated that he also followed the county policies.

Vice Chairman Ognio amended the motion that all county commissioners abide by the 108 policies and the county administrator and to have the county attorney look into policies around access to personnel files and to ensure that it does not conflict with state law. Commissioner Oddo amended the second.

County Attorney Dennis Davenport stated that it was implied that state law would be followed.

Vice Chairman Ognio amended the motion that all county commissioners abide by the 108 policies and the county administrator and to have the county attorney look into policies around access to personnel files and to ensure that it does not conflict with state law. Commissioner Oddo amended the second. The motion passed 4-0. Chairman Eric Maxwell was absent.

ADJOURNMENT:

Commissioner Rousseau moved to adjourn the January 31, 2018 Special Called meeting. Commissioner Oddo seconded. The motion passed 4-0. Chairman Maxwell was absent.

The January 31, 2018 Board of Commissioners meeting adjourned at 1:59 p.m.

Tameca P. White, County Clerk

Randy Ognio, Vice Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 22nd day of February 2018. Referenced attachments are available upon request at the County Clerk's Office.

Tameca P. White, County Clerk