

BOARD OF COUNTY COMMISSIONERS

Lee Hearn, Chairman
Edward Gibbons, Vice Chairman
Eric K. Maxwell
Charles W. Oddo
Charles D. Rousseau



FAYETTE COUNTY, GEORGIA

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

140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

MINUTES Special Called

June 17, 2021
2:00 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

Chairman Lee Hearn called the June 17, 2021 Special Called Meeting to order at 2:02 p.m.

Invocation and Pledge of Allegiance

Chairman Hearn offered the Invocation and led the audience in the Pledge of Allegiance.

Acceptance of Agenda

Vice Chairman Edward Gibbons moved to approve the agenda. Commissioner Charles Oddo seconded. The motion passed 4-0. Commissioner Eric Maxwell was absent.

DISCUSSION:

Discussion of the redistricting process.

Attorney Bryan Tyson with Taylor English Duma LLP specializes in redistricting election law explained the redistricting process to the Board. He stated that he had worked with the Fayette County Board of Commissioners previously during litigation against Fayette County regarding the voting rights act. He stated that when the census numbers are released the existing districts become unconstitutional because they are no longer equally sized. The state legislator must take action to redraw the district lines to get them balanced back in population. It is the requirement of "one person, one vote" of the U.S. Constitution. Traditionally, the County would have received the census data in March of the census year and would have the rest of the year to work on the map, and all until qualifying of next year in March. This time, the redistricting data has not yet been released and the current projection of receiving the data is August or September of 2021. This makes the time more compressed than the traditional time to do the redistricting. Since the district lines must be redrawn and it must be in place before candidates qualify in March, the processes must be complete relatively quickly. The census bureau states that preliminary data will be released on August 16, 2021, to allow initial map drawing to take place but the entire data would be released at the end of September 2021. There are still lawsuits pending about the release of the data and so at this point, it is not guaranteed that the data will be released on that timeline. Once the census data is released, the adjustment will be made to each district and that process usually happens considering a tiered approach to redistricting. The first of the tier is equal population; making sure each district is equally sized. Second is to be in compliance with the voting right act by getting the districts properly drawn and the last is making sure the traditional principle of redistricting is applied. This includes where the incumbents are located, trying to maintain existing district cores and the others are keeping communities together so people can be represented by someone that can explain interest in their particular area. After this process it will be submitted to the legislative delegation as local legislation. Historically, when the legislator meets in special session which would happen in the fall to redraw the House of Representative, the State

Senate and the Congressional map. Mr. Tyson stated that at such time there would be quite a bit of local legislation redrawing local jurisdictions as well. He stated that given how late the data will be distributed, the concern was that there may not be enough time in the special session for the legislator to do a lot of local bills at the same time. He stated that once there was a new map then there was a number of things that needed to happen primarily for the election department. The election department will have to work to reallocate all the voters into the new districts and that takes a while to complete. He stated that currently, the County was on the same timeline for March qualifying and May primaries for the elections. Mr. Tyson stated that there was census estimates available that allow for estimating but it was not great below the county's level in terms of precision. If part of the county had grown, then that district will have to get smaller in terms of geography. If other parts of the county have not grown as fast, then that will get a larger share of geography. He stated that there was a little bit of work that could be done on that front, but that the main work will happen once the census data was released. The County will need map drawing assistance and legal advice along the way. Different counties handle the process in different ways. Some counties use the Legislative and Congressional Reapportionment Office at the Capital to draw district boundaries. This process required that the County work with the local legislative delegation and Fayette County would be one in the line of local jurisdictions that will all be rushing to get their maps drawn as quickly as possible once the data is released. Mr. Tyson stated that another option was to use another entity to handle the process or use the county's GIS department or his firm, who has an outside expert on retainer that can assist his firm with drawing redistricting plans.

Chairman Hearn stated that the advantage for Fayette County to contract with Mr. Tyson's firm was to be on the leading edge of the process, realizing that all 159 counties are facing the same challenges in terms of redrawing districts and getting it right. He stated that he believed it was important to give the elections department time to get the work done to reallocate and be ready for this to happen. He stated that he wanted to make sure that the process was seamless, fair, and the first-rate way to do things. He asked how much time was needed to complete the work once the census was released.

Mr. Tyson stated that the work itself did not take long. He stated probably a week to review the maps and get input. The question was getting it scheduled and making sure his firm could make that happen with the state legislator also drawing maps and trying to meet with his firm at the same time. He stated that another piece that the elections department will have to complete was all the State Senate districts that change, all the State House districts that change, and all the Congressional districts that change. This will involve a lot of programming and ideally, we would have those maps by the end of the year for the special session. He stated that if his firm could have the County's map ready by mid to late September or early October there was a better chance of it being included in the special session so that the elections department would only have to do this once. Doing all the maps at one time instead of coming back later to figure out County Commission and School Board.

Vice Chairman Gibbons asked Mr. Tyson if his firm had the capacity to take on and get the County through this process. Mr. Tyson stated that currently, yes. He stated that he could not make a guarantee that if the Board waited until September that he would still have that capacity.

Chairman Hearn stated that once the recommendation was made to the local delegation then there was a bidding process at the state level. Mr. Tyson stated yes. He continued that the Legislative and Congressional Reapportionment Office for the state does an error/quality check. He stated that his firm had the same software to conduct the error/quality checks. Once the Legislative and Congressional Reapportionment Office signed off, it moved to a piece of legislation and would go to the Legislative Counsel. It is drafted with a legal description and then the legislative delegation has the option to deny the maps and so there needed to be communication with the local delegation on why the Board chose to recommend the particular boundaries.

Chairman Hearn stated that the Board wanted a very fair, open, correct and transparent process. He stated that he had worked with Mr. Tyson's firm in the previous districting issue and had the utmost respect and integrity in the way his firm handled the previous redistricting.

Mr. Tyson stated that getting started early enabled the public input and transparency to happen because there was the opportunity to get the draft map, present it at a commission meeting, get feedback and make adjustments.

Chairman Hearn stated that to him it was another reason to take this step. He stated that in terms of percentage, did the Legislative and Congressional Reapportionment Office expect the numbers to be exact in each district.

Mr. Tyson stated that there are different rules regarding that. He stated that the legal standard for legislative districts, County Commissions and School Board districts was substantially equal as practicable. He stated that for Commissions it was up-to 10% total thresholds plus or minus 5% off the ideal size. Getting into the 1 ½ % to 2% range was best practice and gets insulated from any challenges under the constitution.

Commissioner Charles Oddo stated that he had followed up with Mr. Tyson and he was appreciative of the work that was done. He stated that Mr. Tyson was familiar with the county and that was the advantage. He stated that he was pleased that Mr. Tyson was present.

Vice Chairman Gibbons asked if the Board needed to vote to retain Taylor English Duma LLP.

Mr. Rapson stated that the Board could chose to retain Mr. Tyson's firm or place this item on the June 24 agenda. He stated that he was not sure if Commissioner Maxwell would be present on the 24th and that might be the only reason to delay making a decision. Mr. Rapson asked Mr. Tyson how the Board would go about retaining him.

Mr. Tyson stated that he spoke with County Attorney Dennis Davenport. He stated that the options were to retain his firm through a straight hourly retention or a flat monthly retainer.

Vice Chairman Gibbons made a motion to retain Taylor English Duma LLP, Bryan Tyson's firm to get the county through the redistricting process before his firm loses the capacity to assist the County. Commissioner Oddo seconded.

Chairman Hearn asked if the price rate should be included.

Vice Chairman Gibbons amended the motion to include at an hourly rate.

Assistant County Attorney Patrick Stough stated that it was a Board's decision. It could be brought back at a later meeting to vote on the actual method of payment.

Mr. Tyson stated that hourly rate for the map drawing services was \$350/hour and the legal advice fees are \$425/hour. Mr. Rapson stated the fees were comparable to what was done during the redistricting efforts the last time.

Vice Chairman Gibbons amended the motion to include at an hourly rate. Commissioner Oddo amended his second.

Commissioner Charles Rousseau stated that he was perplexed. He stated that the Board advertised for a Special Called Meeting at 2:00 p.m. to discuss the redistricting process and now was ready to vote on a vendor, the only vendor. He stated that he did not have anyone to compare the vendor with and he was totally opposed to this process. He stated that he was on the other side of the lawsuit that was referenced and certainly had reservations on proceeding with this firm. Commissioner Rousseau stated that our procedure normally was to obtain quotes and, in this case, to have someone to compare services to. He stated to go from a discussion to hiring a contractor or vendor at a Special Called Meeting at 2:00 p.m. in the afternoon harms the Board in the public's eye. He encouraged the Board to consider putting this on the June 24th agenda and to consider an alternative vendor to have a comparison.

Chairman Hearn stated that with professional services, often we did not have to get competitive prices. He stated that if he did not have experience with Mr. Tyson's firm, he would agree with Commissioner Rousseau to consider alternative vendors but he did not want to spend weeks or months getting quotes and Mr. Tyson not be available. He stated that he also wanted to give the elections department every opportunity to have plenty of time to have the work completed. He stated that he had confidence that Mr. Tyson would be fair and transparent through the process.

Commissioner Oddo stated that this only happened once every ten years and was unusual because of the pandemic. He stated that had the federal government said they would give the County another six months to create the districts that would be one thing, but they did not. He stated that Mr. Tyson's firm was fair the last time and he had confidence in this firm. He stated that experience does play a part and the Board needed to make a decision. He stated that he understood Commissioner Rousseau but felt this was a little different and a unique situation. He stated that he was ready to vote.

Vice Chairman Gibbons made a motion to retain Taylor English Duma LLP, Bryan Tyson's firm to get the county through the redistricting process before his firm loses the capacity to assist the County and amended the motion to include at an hourly rate. Commissioner Oddo amended his second. The motion passed 3-1. Commissioner Rousseau voted in opposition. Commissioner Maxwell was absent.

ADJOURNMENT:

Vice Chairman Gibbons moved to adjourn the June 17, 2021 Special Called Meeting. Commissioner Oddo seconded. The motion passed 4-0. Commissioner Maxwell was absent.

The meeting adjourned at 2:28 p.m.

Tameca P. Smith, County Clerk

Lee Hearn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 24th day of June 2021. Referenced attachments are available upon request at the County Clerk's Office.

Tameca P. Smith, County Clerk