

SCHLEY COUNTY BOARD OF COMMISSIONERS
Wednesday, December 18, 2019

The Schley County Board of Commissioners held a called meeting on December 18, 2019. Those present were: Chairman Greg Barineau, Vice-Chairman Brian Belcher, Commissioner Bill McClellan, Commissioner Dennis Jones, Commissioner Mike Hammack County Manager Bill Sawyer, County Clerk, Kathy Bruer, Jessica Ellis. And Attorney, Jimmy Skipper.

ITEM 1. CALL TO ORDER

Chairman Barineau called the meeting to order.

ITEM 2. SPLOST

Bill Sawyer stated that several people had asked about the SPLOST referendum in reference to renovations and expansion of the gymnasium. Some have asked if we did not repair the gymnasium across the street, what are our options. Vice-Chairman Belcher asked if we must spend \$400,000 on that gym. Attorney Jimmy Skipper stated that the whole idea behind SPLOST is to have the voters approve the expenditures. When the voters vote/approve a project, the County must do it. If the items are very general, you may have some wiggle room; however, in this particular case, it says renovations of that building. There was a suit in Rome, GA in 1992 where the Board wanted to do something similar and someone sued them. The Georgia Supreme Court said they couldn't change it. What is happening now is with the numbers, you are basically guessing the expenditure anyway. So, the law says a certain project can become infeasible; in this case, you can make other arrangements; but whatever you do, it must go back to the voters to approve/unapproved. But you must pass an Order of Resolution stating that it was infeasible, and the voters still must approve. If the money wasn't used for that project, you can only do one of two things. You can pay-off general obligation debt or put it in the general fund to reduce property taxes. Remember, the SPLOST money must be kept in a separate fund and can only be used for projects on that list. And you must finish each project. Even if you don't have enough money, you still must do the project, you can pull from general fund or put it in the next SPLOST for the rest of the money. Commissioner Jones asked what it would cost to renovate that building. Jack Clark (Rec Director) asked was it possible to move the gym to the Recreation Department? Jimmy Skipper said not under the current SPLOST. Jack Clark stated that the renovations were under the last SPLOST and we cannot wait another five years. Chairman Barineau stated that our only option for now, is to repair that building. Commissioner Jones stated that he likes the location of the gym; Commissioner McClellan stated there is no parking and it's still an old building. Jack Clark stated that the floors will have to be maintained every few years and he's not sure the Rec department will have the money to maintain them. They have a \$65,000 budget and it's hard to make it work. Bill Sawyer said he will set up a time when all Commissioners can walk through and get a more realistic view. Commissioner Jones asked where the kids play basketball now; Jack stated the elementary gym, but they must work around their schedule.

ITEM 3. EMPLOYEE HANDBOOK UPDATE

Jimmy Skipper stated that the first thing he did was a Resolution to amend our current handbook; it was very shallow when it came to hiring and firing, and the appeal process. The problem is you really need an Employee Handbook that is up to date; particularly when it comes to these issues. Although Georgia is an "employee at will" state, the 11th Circuit Court of Appeals takes the position that we should follow what the Handbook says. We do not want to get into a lawsuit based on not following what the Handbook states. The 11th Circuit Court of Appeals stance is the Personnel Handbook is a contract and should be followed to the letter. The 11th Circuit says create a right to due process for any local government employee. The right to due process notice, hearing, and an appeal process. The law says you must follow your handbook and if you don't you can have a lawsuit against you, for violating the contract. So, you cannot terminate an employee without due process. We must make sure we have provisions in here that comply with the process. We've tried to make it simple and everyone

who has a part is addressed. Our organization is like a corporation in that the CEO is the (CM) County Manager, the Board of Directors is same as Board of Commissioners – they set policies and the CM carries the out. The CM delegates to the Department heads. If you hire someone below a department head, the CM does the hiring or can delegate to the department head. And normally, if you are hiring someone in the financial department, the Financial department head, would do the hiring. If a department head is hired, the CM does the hiring, but the BOC approves/confirms. Firing works the same way. A department head can terminate an employee and the employee can appeal to the CM and it stops there. If the CM fires a department head, they can appeal to the BOC. The way the Handbook has been updated is it keeps the BOC out of the nitty gritty. The BOC is elected, and your role is to set policy for the County, we don't want any confusion on the roles. Jimmy Skipper advised the BOC to not get involved in the day to day operations, there is too much liability. The employees should know who the boss is; it can put the county in a terrible situation. The basis is to create a structure to go by and you'll be in compliance with the 11th Circuit Court of Appeals due process.

Commissioner McClellan asked about other changes. Jimmy Skipper stated that's all he was asked to update. Vice-Chair so the appeals section was added to the old book? Jimmy Skipper stated he added a new section 4.10.1. Commissioner Hammack asked if what we have now is up to date and complies with all federal laws. Skipper stated yes, if this change is implemented then it will be in compliance. Commissioner McClellan asked are we going to meet again and see about other updates. Bill Sawyer stated before the next Board meeting. Barineau said what he prefers is for everyone to have changes written down, and if you would, share it with everyone prior to, maybe through the Clerk and let her send it out to everybody, because you don't want to sit here for two hours talking about one little thing that, in the grand scheme of things, really don't matter. I don't mean that in a negative way, just so everyone had an idea of where we are and if they want to poke holes in it they can and they are prepared when they get here; we don't want to meet and meet. Chairman Barineau suggested the BOC review the book and get changes to the Clerk by December 27th. And she will send to everyone. We will meet again on January 3rd at 3:00 p.m. to go over those changes. Also send to Mr. Skipper for him to review and let him determine if there are legal issues that won't comply.

Chairman Barineau asked if there were other questions. Vice-Chair Belcher stated tennis courts; we had an original bid and then we found another guy that would do it for the same price but more work. Bill Sawyer asked could we add it to the Agenda. Commissioner McClellan made a motion to add it to the Agenda, seconded by Vice-Chair Belcher, and all were in favor.

ITEM 4. TENNIS COURTS

Bill Sawyer stated that he got a quote from Robinson Paving and Doug Wofford, out of Columbus. Wofford submitted a bid for \$42,700+, commissioners approved motion by Commissioner McClellan seconded by Commissioner Hammack, with some addendums to making sure that specific maintenance issues and grass cutting issues were taken care of. I talked to Lynn (McChargue) and talked to Brian Hall and forwarded them an email. I signed the contract and forwarded the contract the next day. The next day I had a conversation with a Commissioner, and I called the recipient of the bid and told him to hold off until we can sort this thing out. In the meantime, I sent a letter to Jimmy Skipper. The attorney is here now so he can answer any questions. Jimmy Skipper stated he'd talked to Bill and his position from a legal standpoint is that they had already approved the contract, it was already signed, and he doesn't know how you can undo if it was already signed. You must be careful when you do this bid thing because bids coming after you've already decided is generally disregarded because you've already made the decision. Since you'd already signed that contract, you're bound by the offer and unless the contractor agrees to let you resend it you are obligated. Commissioner McClellan stated that when we were making the motion it was for Greg to get the contract on maintenance and for Mike to oversee it, was that not what the motion was for? Bill Sawyer stated he asked for an amendment. Mike said he wanted to be in charge of the project because he has bid experience; the part I took was to make sure the city and school board were on board. Chairman said his concern was spend the money and it goes to pot. His recommendation was clarification on who is going to be responsible for upkeep. Commissioner McClellan said

his motion was for this to be handled first before the contract was signed. Vice-Chair Belcher stated that was his belief as well. That we were not signing anything until we got all that laid out as well. Commissioner McClellan said that was his thoughts too. Bill Sawyer stated that's not what the minutes reflect. Brian Belcher asked what the recording reflects? Commissioner Hammack stated he believes Mr. Wofford would release us from the contract. All he wants to see is the tennis courts properly fixed. He said these particular courts, a few years ago, when my girls were in that age and were playing tennis, a company was hired to come out and refinish the courts. They came out and asphalted the courts. When they finished, they were in worse shape than they were before; they were not playable. I don't know who did it, but the courts were not usable after all the money was spent. They'd make a great parking lot, but they weren't tennis courts. That's the reason I wanted to be involved with it. I used to play, and my kids played. That's why I said I'd like to be involved. I did talk to Mr. Wofford and he has repaired one tennis court. He has built six tennis courts. I certainly understand going to an asphalt company because the base is asphalt. But he doesn't know, he's been involved in the process at Southland. They don't replace the asphalt they grind up the top and resurface. I wonder if a company who specializes in tennis court repair is what we need. I think we got the cart before the horse. (Kathy read the minutes to the Board.) Barineau asked Skipper what his opinion was; Skipper replied that it sounded to him as we accepted the bid because so said requirements is working with the city and the school. Someone from the school called Jimmy about the lease and they needed him to revise and update. Commissioner Hammack stated so basically, we have signed a contract and we are obligated to let that contractor do the work. Jimmy said yes, but if he chooses to, he can let you out of the contract. Commissioner Hammack said he called Mr. Wofford and talked to him, he told him the weather was not appropriate to begin the repairs. It seemed it would be two – three months before he could begin the repairs. He did tell Mike he'd resurfaced one court, but he'd built six. Mike feels he may not be the most qualified. Mike stated it was his impression he was going to do a turn-key job, he was going to take the fence down and put them back but, in his contract,, he says he's not putting the fence back up. Which we could get that done. Mike stated he really feels we should contact him and say there's been some confusion some things we need to work out and ask him to release us from the contract. We could very well ask him to resubmit, but he would like to get some proposals from people who really do tennis court work. He thinks we need to get a Scope of Work, some of the problems out there are tree roots, perhaps the bushes. Come up with a complete SOW and see about someone who surfaces tennis courts. He doesn't know there is anything wrong with the asphalt. Speaking with a man from ABC who's been doing it for 40 years, he does Auburn University, University of GA, University of FL, tennis courts from all over the country. He's looked at these courts and he says the asphalt is fine, but they need to be resurfaced. He thinks we should basically start fresh and get new bids from people who do tennis court work. Mike said if we're going to spend the money, we should do it right, and we get the rules in place. Chairman said he thinks that's already in place for the most part; the school is going to handle it. Commissioner Hammack said what about people not associated with the school, would anybody have access to it. Greg said that would depend on what's in the lease. Bill McClellan said we're paying for it, that doesn't sound quite right. Jimmy said in all likelihood there is something in the lease about liability. McClellan asked if the commissioners would have a chance to review the lease. Jimmy says there would be an intergovernmental agreement. The use of it would be set up amongst all three entities. McClellan said he doesn't want Joe Blow to not be able to use it even though he leaves in the county. Hammack said if the school had a tennis team, they would take priority but everyone else could use it. Kathy Bruer mentioned that when Flint approached us it was a community project; it wasn't a city, county or school project. She hopes that with a contract we're not shooting ourselves in our foot because everyone should be able to use it. Belcher said the ball is back in Wofford's court; if he lets us out of the contract, then we'll be back to square one. Commissioner Hammack made a motion for Bill Sawyer to contact Mr. Wofford to rescind the contract, seconded by Commissioner McClellan, and all were in favor.

ITEM 5. MOTION TO ADJOURN

Commissioner Jones made a motion to adjourn the meeting, Vice-Chairman Belcher seconded the motion, and all were in favor.

Attest:

Greg Barineau, Chairman

Kathy Bruer, County Clerk

**SIGNED /APPROVED COPIES
AVAILABLE ON REQUEST.**