

# After Agenda

**Board of Commissioners of Spalding County  
Work Session  
Monday, June 27, 2016  
9:00 AM  
Meeting Room 108, Courthouse Annex  
119 E. Solomon Street**

**The Spalding County Board of Commissioners held a Work Session in Room 108 in the Courthouse Annex, Monday, June 27, 2016, beginning at 9:00 a.m. with Chairperson Rita Johnson presiding. Commissioners Bart Miller, Raymond Ray, Gwen Flower-Taylor and Donald Hawbaker were present. Also present were County Manager, William P. Wilson Jr., Assistant County Manager, Eric Mosley and Executive Secretary, Kathy Gibson to record the minutes.**

- A. OPENING (CALL TO ORDER)** by Chairperson Rita Johnson.
- B. INVOCATION** led by Commissioner Donald Hawbaker at the 8:45 a.m. Special Called Meeting.
- C. PLEDGE TO FLAG** led by Commissioner Raymond Ray at the 8:45 a.m. Special Called Meeting.

***Motion/Second by Hawbaker/Flowers-Taylor to amend the order of the items on the Agenda to allow for the Gordian Group to present first. Motion carried unanimously by all.***

**D. AGENDA ITEMS**

1. Presentation by the Gordian Group on DOAS State Contract Job Order Contracting Solutions for possible SPLOST projects.

Mr. Grayson Briggs of the Gordian Group introduced himself and introduced Justin Olson who is a member of his Operations Staff who works in the field with the Georgia clients. Spalding County is looking to utilize Job Order Contracting Solutions through the Gordian Group for construction of the Pickleball Facility.

Mr. Briggs then reviewed the history of job order placement contracting and advised how through bulk bid processes they are able to offer products and services for repair, alteration and new construction to government clients.

Mr. Briggs then advised the way the contracting works is they establish a list of construction task line items. The bid will cover the costs per square foot for materials and installation. All facets of the construction process is broken down and consolidated into a construction catalog which is then sent out to vendors.

The vendors then bid on the section they would like to be considered for in the total bid offering. He then presented the list of awarded contractors for this region.

The Gordian Group will build a contract based on the design of the Pickleball Facility. The process they will use for this project will give the County three prices for the facility. There are three contractors that have been selected to bid on this project based on their past experience in working with government entities. One has worked with the Georgia Bureau of Investigation, one with the Georgia Department of Natural Resources and one with Gwinnett County Parks and Recreation.

Mr. Briggs advised that historically there have been a time savings as well as a cost savings by utilizing the job order contracting solutions method being offered by the Gordian Group. The construction task catalog is a fixed catalog and it has been proven time and again that it will save owners 8-25% on the cost of construction. He further stated that this is a performance based contract and if they don't perform, the contractors will not get any more work through this group.

Mr. Wilson advised that the staff believes this will be advantageous for not only the Pickleball Project, but on all of the SPLOST projects. He further advised that there can be an option for liquidated damages should they not complete the project on time.

Chairperson Johnson asked if there was any way that the Board could receive feedback from some of the projects they have completed in the area.

Mr. Briggs and Mr. Olson stated that they would pull together a list of projects done in this area and will provide contact information for those projects.

Mr. Wilson stated that staff is requesting that the County use this process for the Pickleball Project if they are able to come in under or at the budgeted cost for this facility with an estimated completion date. If they can't come in under budget or meet the completion date it doesn't cost us anything and we can bid the project out like we would normally. Staff feels this would be a great way to try out this service, see how it works and advised that it does meet our Purchasing Policy requirements through State Contract purchasing. Staff feels this would be a great turnkey project to try out this service.

Consensus of the Board is to go forward with the Gordian Group for bidding out the Pickleball construction.

Commissioner Flowers-Taylor wanted to make sure that 10% of the contract goes to local contractors/subcontractors and that Gordian Group make their "best effort" to see that this happens. If they can't find qualified subcontractors

on their vendors list that they present proof that the effort has been made. They asked that the County supply the Gordian Group with a list of local vendors for this project.

2. Discussion of Human Resource matters with HR Attorney John Lowery to include the "Ban the Box" initiative on employment applications.

John Lowery, Human Resource Attorney, stated that the "Ban the Box" movement started in 2004. Simply the issue revolves around the placement of a box on the application asking that the applicant if they have been convicted of any crime. On the Spalding County Employment Application it is Item #18. The "Ban the Box" is a movement to removed that inquiry from the application as a matter of routine.

Mr. Wilson then advised that a copy of the Spalding County Employment Application and the City of Griffin Employment Application were included as attachments to the Agenda item on Novus Agenda.

Mr. Lowery then advised that legally there is no prohibition to having a box on the application that requires disclosure of convictions. The important thing is what is done with the information. Whether the information is acquired during the application process or subsequent to the application, the individual must be advised that a background check is going to be a prerequisite to actually getting the job.

Mr. Lowery stated that the EEOC takes the position that "to automatically disqualify persons with convictions" is improper because it has a despaired impact on African American and Hispanic males.

Mr. Lowery then advised that the Spalding County Employment Application has a note below Item #18 that essentially reflects the position of the EEOC indicating that checking the box indicating the individual has been convicted is not an automatic disqualification. It will depend upon the nature of the offense, the elapsed time since the conviction and the relationship, if any, to the job that the individual is applying for in comparison to the offense committed.

Mr. Lowery stated that, in his view, there is nothing wrong with the application currently being utilized by Spalding County. It is in compliance with the EEOC position on the matter and he is not aware of any prohibition imposed by any agency regarding this practice. He then stated again that it is not whether the check box is on the application, it is how you use the information.

Mr. Lowery advised that it is important to have a job description for every position and to include in that description if there is a requirement of the position that would exempt someone who has been convicted of a crime. He stated that many of the positions in Spalding County require POST certification.

If an applicant has a felony conviction, they cannot be POST certified. Having this information on the job description would provide an opportunity to the individual for self-selection as they could eliminate themselves from consideration as they could not be POST certified.

Commissioner Flowers-Taylor asked if a conviction is always a deterrent to POST certification, or is there a number of years to be considered after a conviction before an individual could be considered for employment in a POST certified position.

Mr. Lowery advised that he would check into the POST certification and see if there is a designated number of years that need to elapse before an individual could qualify.

Commissioner Flowers-Taylor stated that she feels that by this question appearing on the application, many qualified individuals who check the box are not given an equal chance of going forward in the hiring process. She stated that it is her perception that these applications are not even considered, they are automatically excluded from consideration.

Mr. Lowery stated that the question is within the approved parameters of the EEOC and should not be considered an automatic disqualification for any position in Spalding County that does not specifically have a requirement of no violations listed as part of the job description.

Commissioner Flowers-Taylor stated that she feels it is important that the County show that we are not utilizing this box to discriminate against or automatically exclude individuals from the hiring process and removal of the box would be a positive step in the right direction. She stated that she would like to know how many applications are received by the County annually that have the box checked and how many people we hire that may have had a felony conviction. This information would give us an idea of where we are.

William Gay stated that we have not traditionally tracked those particular characteristics. He stated that traditionally he will review the application to make sure the candidate is qualified and forward it to the department head who is filling the position. The department head will then review the application and set up interviews. The applications that have the box checked are not automatically excluded from consideration by the HR Department. The listed qualifications are reviewed and if the candidate fulfills the requirements of the position, the application is forwarded to the department head for consideration.

Commissioner Miller then asked at what point would the background check be performed to ascertain the nature of the conviction.

Mr. Gay advised that the background check is generally ran after the interview

process is complete and prior to the applicant being hired. The reason being is that we receive so many applications, it doesn't make sense to run a background check prior to the interview process being completed.

The only exception to that rule is for the Fire Department. Those background checks and driving records are run on the front end prior to the investment of time for job task simulation testing and rookie school. Applicants are met with individually prior to beginning this process for fire fighter positions.

Chairperson Johnson asked what the cost of the background checks were for the County.

Mr. Gay advised that the Criminal History checks are run by the Sheriff's Department at no charge to the County.

Commissioner Flowers-Taylor then asked that when all things are considered and the interview process has been completed what the determining factor would there be should two applicants have the exact same qualifications, only one has a criminal record. What would be the determining factor in which applicant gets hired is there a number of years, or does the type of crime committed weigh into the decision.

Mr. Gay responded that it will depend on how long ago the offense was committed and it would depend on if the conviction is relevant to the job being applied for by the applicant and it would also depend on the nature of the offense.

Commissioner Ray stated that the County is interested in hiring the best applicant for the position. He then asked if the Spalding County Employment Application as it stands today provide for a case by case review to hire the best applicant.

Mr. Gay responded that the applicant utilized by the County today does meet that criteria.

Mr. Wilson then reviewed the City of Griffin Employment Application as posted on their website and advised that they too have a question that states:

"Have you ever been convicted of an offense against the law or are you now under charges for any offense against the Law? (Omit non-moving traffic violations and any offense which was finally adjudicated in a Juvenile Court or under a Youth Offender Law). He stated that they have the same sentence under that question as the county: NOTE: A conviction will not necessarily bar you from employment. Each conviction will be judged on its own merits with respect to time, circumstances and seriousness. He stated that the Board had been told earlier that the City of Griffin had changed their application, but this

application was pulled straight off of their website and can be accessed on that site today.

Commissioner Flowers-Taylor stated that our question was phrased differently from the City of Griffin's question.

Mr. Wilson then read item #18 on the Spalding County Employment Application:

"Have you ever been CONVICTED of ANY violation of the law, other than minor traffic offenses, or pleaded NOLO CONTENDERE to criminal charges, even if the adjudication was withheld?" Mr. Wilson then noted that underneath the questions the statement: "NOTE: A conviction will not automatically disqualify you from employment by the County. The nature of the offense, how long ago it occurred, the relationship to this job, etc. are given consideration."

***Commissioner Hawbaker left the meeting at 10:11 a.m.***

Commissioner Flowers-Taylor then asked Mr. Gay how many individuals currently working for Spalding County have felony convictions and what their races are and what jobs they are currently occupying. She then asked Mr. Lowery if there would be any harm to the County if item #18 were removed from the Spalding County Job Application.

Mr. Lowery stated that there would be no harm in removing the item from the Application, it would simply be a waste of time as you are simply delaying asking the question. By delaying that question, more resources are going to have to be devoted to screening the applicants who are eventually going to be disqualified from taking the position due to the stated requirements for the position. If the job description clearly states that the applicant has to be POST certified or a certified fire fighter, then a criminal conviction will disqualify that applicant.

Commissioner Flowers-Taylor stated that she has no problem with the question being asked as part of the interview process because the individual has had the opportunity to meet with Mr. Gay or the department head and their temperament, their willingness to work and their qualifications can be reviewed during the interview. This gives them an opportunity to get in front of the individual making the hiring decision and make their case. Many people will disqualify themselves if they see the question on the application and assume that the application will be trashed if they check that box.

Chairperson Johnson then asked how long it would take for Mr. Gay to provide the Board with the information regarding the number of individuals currently employed by Spalding County that have a criminal record. She advised that she too would like to know those numbers.

Mr. Gay advised that this type of data has not been requested in the past; therefore, it has not been collected. However, he will have to go through the paper personnel file of every employee in order to compile this information and there are currently approximately 550 employees who work for Spalding County.

Mr. Gay asked the question “if there is an employee that was hired 20 years ago and there is no criminal history check in the file, does the Board want him to run a criminal history check on that employee?”

Consensus of the Board is to have Mr. Gay report back to the Board on the number of individuals currently employed by Spalding County with felony convictions in their past, their race and what positions they currently occupy and present to the Board on or before August 1, 2016.

Commissioner Ray stated that in order to answer the question, if there is no criminal background check in the file, then one will need to be ran.

Commissioner Miller stated that he is of the opinion that if an individual has committed an offense, the nature of the offense needs to be identified before the application is sent to the department head for consideration.

Mr. Wilson advised that over 50% of Spalding County’s workforce either requires POST certification or is a certified fire fighter. He then furnished the Board with sample copies of the actual job postings for some of the positions that require POST certification and the fire fighter job announcements. These job announcements are given to applicants when they come in to apply and they are posted on the website.

Mr. Gay advised that POST certification and Firefighter Standards and Training Council are both established under Georgia Law and we are required to adhere to the standards set by the State of Georgia for these positions.

Commissioner Flowers-Taylor asked that the Job Announcements be modified to more prominently display the POST Certification and Firefighter Standards and Training requirements so that it not be lost in the general description for those positions. She feels that if the Job Description includes per State Law you do not qualify for this position if you have a criminal record, it will clear up some of the misunderstanding that people are being summarily dismissed and their applications are not being considered.

Commissioner Ray stated that:

1. We require a background check on all employees being hired.
2. Commissioner Miller brings up a very valid point, currently the criminal background check is ran after the department head interview. He

recommends that we provide as much information as possible to that department head so that they have all of the information in hand at the time of the interview and that should include the criminal history report.

Commissioner Ray recommended since only approximately 50% of the employees are not POST certified or a firefighter that we ask Mr. Gay to limit his research on employees with criminal records to those employees who are not required to be POST certified or are not currently firefighters.

Consensus of the Board is to change the Job Announcements for jobs requiring POST Certification or have to meet the Firefighter Standards and Training Council requirements prominently display the restrictions for felony convictions.

Mr. Lowery will research POST Certification requirements to see if there is a limit in the number of years a felony conviction will be valid for consideration of certification and report back to the Board.

#### **E. ADJOURNMENT**

***Motion/Second by Miller/Ray to adjourn the meeting at 10:54 a.m. Motion carried unanimously by all.***