

**HAMILTON COUNTY ELECTION COMMISSION
MINUTES OF MEETING
July 28, 2006**

Call to Order:

Upon notice duly given, Chairperson Avila called to order a Call meeting (for the purpose of discussing the Recycling Petition) of the Hamilton County Election Commission at 8:00 a.m. on July 28, 2006 at the office of the Hamilton County Election Commission, 514 East 4th Street, Chattanooga, Tennessee.

Invocation: Chairperson Avila

Pledge of Allegiance: Secretary Quinn

Present at Meeting:

Chairperson Avila-Morris, Secretary Quinn, and Commissioners Eddington, Lee and Walden were present at the meeting. Attorney Jerry Summers and the staff of the Election Commission were present as well. Also present were members of the community, as well as members of the media as shown on the attached sheet.

Legal Matters: Attorney Summers stated: We are here to serve the people and Mr. DePinto who wants to file a petition under TCA § 2-5-151 on an initiative and that is the question of curbside recycling with the city of Chattanooga. Whether he prevails or doesn't is not our issue, our issue is merely in regard to if they want to do this and if they comply with the law. Mr. Knowles had spoken to Mr. DePinto and I agreed to meet with him just to tell him what the law was. He revised the petition, I sent it over to Brook Thompson's office and he approved it as being in compliance with TCA § 2-5-151.

That is what you see before you. If you approve this petition and I recommend that you do, he can file it and he has 75 days in order to get his names. Mr. DePinto stated that Charlotte told him it was 14,901 but that he was going to get 1605 just to be sure. He had a lot of people that may have had incorrect forms and he needs to get the required names and I submit to you that I have approved it and so has Brook Thompson's office and let it be filed and Mr. DePinto get on with getting the names. Of course if he gets the names it will be put on the ballot. I will be glad to answer any questions".

Secretary Quinn asked if the petition, if approved by the voters usurp the authority the mayor currently has as to the recycling program.

Attorney Summers stated: "You would be adopting a city ordinance by referendum. But you have to first get the names to get it on the ballot and then you have to get the votes".

Chairperson Avila: "All we are doing today is to voting to have him petition to have the petition on the ballot. So we are giving him the opportunity to do this". Attorney Summers replied that "yes, we are giving him the opportunity and then the voters have the right to intact the ordinance if they want to. I think it is in legal form and it is up to the citizens of Chattanooga".

Chairperson Avila asked if the Commission had any more questions. They did not so she recognized Mr. DePinto and he addressed the Commission.

Mr. DePinto stated: I appreciated the Commission and having him there concerning the petition. We have to get enough voters to sign and that is just to get it on the ballot and then we have to get the voters to vote. The other end, the politics of this from what I understand, I am part of the task force and I was there last night and we are discussing and we are trying to solve the problem on that end too. The committee will only recommend to the city council and then they can come up with something else and water it down. This is powerful stuff. If the voters vote for this then the city would have to do it. That is my point of view if anybody has any questions".

Commissioner Walden made a motion to accept the petition and Secretary Quinn seconded it.

Chairperson Avila asked Mr. Knowles if everything was in check regarding the new machines.

Administrator Knowles stated: "Yes, everything was in check. We had training and only 6 people have voted on the touch screens to date". He further stated that we only had one problem with the touch screens and the voter came back and had someone assist her on the regular ballot.

Chairperson Avila stated that only the staff will be in the computer room and Mr. Knowles said that was his suggestion.

Commissioner Lee asked if the results will be online also and Mr. Knowles answered yes.

Chairperson Avila asked that we have at least two people in the back in order to answer questions and some in the front.

Commissioner Walden asked Administrator Knowles did we have only 6 people voting on touch screens out of 13,000 that do not have a paper trail? Administrator Knowles answered yes.

Commissioner Walden then asked why we were not transmitting this election and who made that decision?

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Administrator Knowles explained that Shannon DeFriese and Cathy Smothers from Diebold were in communication and that the adapter has not been approved by the state, and it will just be easier from them to bring them both in and us just upload the information at once.

Chairperson Avila asked if Shannon made the decision and Administrator Knowles stated that they (Shannon & Kathy) brought the issue to him and he made the decision. He felt that it would cut out the confusion.

Commissioner Walden stated that his concerns are how this affects the electoral process and our procedures. We approve the people who work in the polls, we don't pick them but we approve them. We approve the budget, the polling places and to think that we do not approve how we do the ballots does seem to be inconsistent.

Chairperson Avila stated that she agreed with Commissioner Walden that they should have been notified of this change.

Commissioners Lee & Eddington stated that yes; this was brought up at the last meeting.

Commissioner Walden stated that we download all the results at the site via the phone line or internet and we have all of a sudden changed this. The computer operator should not make that request. This should have been our decision.

Administrator Knowles stated that it was a decision made by himself, Shannon and Cathy from Diebold. That since there was new equipment and there were a lot of things going on, that it would be would be simpler, safer, and quicker to bring them in.

Shannon DeFriese stated that it was Cathy's recommendation that from all of her elections throughout the country and implementing new equipment on the first election, especially in this short time period, that it would be more expeditious as far as getting all the results in.

Commissioner Lee asked if it was too late to go ahead and transmit.

Administrator Knowles stated that we had already told all the officers that they didn't have to transmit and to just bring them in.

Shannon DeFriese stated: If anything it is more secure, they are bringing in the machines and we are the ones checking the seals and making sure everything is accurate and correct. No one will know any difference except the 15 minute difference until we get the first machines.

Administrator Knowles stated that he wanted to refer back to the last meeting minutes because they said they had never heard of it.

Commissioner Lee stated that she read it in the minutes.

Commissioner Eddington stated this was a one time thing.

Shannon DeFriese stated that when the machines come in there will be a Democrat and a Republican in the car.

Commissioner Walden asked if there would be a Democrat and a Republican in every car with every machine.

Administrator Knowles said yes.

Shannon DeFriese stated that they had to have one of each in the car.

Commissioner Walden asked if we had a list that we could verify when every car pulled up if there was a Democrat and a Republican in the car?

Administrator Knowles said that would be up to the man who is checking in.
Commissioner Walden stated that should be up to us.

Commissioner Avila: "Commissioner Walden made a good point that we had 6 people vote on the new machines and we have not trained people on the new machines and I think that is a valid issue. Do you anticipate that a lot of people are going to use the machines?"

Shannon Defriese: "I don't really see how there is any way for us to guess."

Commissioner Walden: "Understand that we have got to be able to articulate why we changed the policies and procedures of the Election Commission and when it effects things that will effect the confidence of the public in the electoral process the Commission should not in passing have something mentioned but have a motion voted on where we can publicly say whether we were for or against it and be able to articulate why this was done. Out of 13,300 people who have voted, four legitimately have used the touch screen machines. We changed our whole policy because of these four people. These machines that have not been approved by the state, not our fault, the interface has not been approved by the state, we are going to change our whole policy as to how we report our votes back to the Election Commission on election night. If that's the decision of the Commission, we vote on it and that's our decision. But just think about it, we changed our policies and procedures based upon four people using the touch screen machines. The true issue is that if we have election officials at the polling places and they are not competent and capable and trained enough to use the

sophisticated voting equipment that we have then they are not the person for that job. We have to train them or we have to replace them, but we cannot say that we are not smart enough or educated enough or trained enough to use the technology that we have to get fair, accurate and timely election results. That is the bigger picture. I do not think that anything improper has happened or will happen but that is something that we have to make sure that the citizens is confident that we made a decision based upon sound information provided to us.”

Administrator Knowles: “We have no way of knowing how many voted at the precinct level. This had just been at three voting sites. You speak of four, it could be four hundred. We don’t know.”

Commissioner Eddington: “I don’t think we have actually changed our policies. This is just a one-time temporary thing and I think the votes will have confidence in the man they elected to fulfill his duties with them in mind. I don’t see making a big deal out of a one-time thing. If it was permanent maybe so but I think that Bud is doing a good job here and I think he has good judgment and we can explain to the public.”

Commissioner Avila: “I have already been asked why we couldn’t transmit and I don’t think I gave a good answer and I probably need to make an apology.”

Administrator Knowles: “I thought it would be best to do this and then start the new training for November.”

Commissioner Avila: “Okay, let’s go back. If we are not going to transmit, the procedure is that the workers will bring in the ballots boxes...” (Shannon Defriese begins to speak) “and the acuvotes and we can very quickly upload those cards and the process will go very quickly. As newer buildings are being built, they are putting in digital phone systems and these require an analog system and so frequently we are having to try to set up to see if an office will be linked up and it has a fax machine and sometimes we just cannot arrange that. For the entire time we have had this equipment, several precincts have had to bring it in anyway for direct upload. That’s just been historical. Where there has been a problem with the phone line at that location or ours.”

Commissioner Avila: “So the procedure in terms of the length of time to get the count in should not be that much different.”

Administrator Knowles: "There is no effect in the honesty of the election. No votes are lost and it is just the same as if we transmitted. It's just the time frame in getting the votes here."

Shannon Defriese: "The second they close the polls, they run the card through, all poll workers sign the tape as they normally do and then immediately someone is dispatched with the machines to come to our office."

Commissioner Avila: "And there will be a democrat and a republican in each car?"

Shannon Defriese: "That's always been the policy."

Commissioner Avila: "So Commissioner Walden would you like to assist and see that this happens? Do you have a list of the names?"

Commissioner Walden: "No."

Chairperson Avila: "I was just wondering. You seemed kind of concerned. We just want Hamilton County to have fair elections. Fair and Honest."

Commissioner Walden: "Had we been asked this question before this discussion we could have articulated where, when and why we were doing what we were doing."

Chairperson Avila: "This is a one time deal and we will try to get through this."

Commissioner Walden: "We approved policies and procedures and we approve people who work at the polls. Don't you think we should have voted on how those results are transmitted and received? I don't want to be the one who says it's because rats peed on the wires. The optical scans are approved to be transmitted over there but the touch screens are not. Why would we not vote on changing the policies and procedures on how the things are reported. We should have had the discussion that the touch screen machines the optical scans are approved to be transmitted over there but the touch screens are not. When we introduced the new machine we decided to transport both machines instead of continuing to do what we did on one machine and transport the other machine which we know is going to have far less results on it. What's the total amount of votes we predict will be voting?"

Administrator Knowles: "40 percent"

Commissioner Walden: "Okay, so we are going to have 16 people vote on optical scan instead of thirteen that voted other. For 16 people we changed our whole policy and procedure. That will not effect the election. We hope. We just need to be prepared if this happens to justify why we decided not to transmit."

Administrator Knowles: Commissioner, the machines that are not voted on still have to be zeroed out, signed am., pm., they still have to go through the same procedure.

Chairperson Avila: I agree with you on this issue but let this too pass because we are creating a little too much chaos and we want to assure the public that we are trying to be fair about our election process. We just have to pray that everything turns out okay. If it doesn't, we as Commissioners are going to have to bear the brunt of whatever happens.

Administrator Knowles: "Let me make this statement. I will assure you that it will be an honest upgrading, duly processed election. No votes lost and all votes will be counted."

Commissioner Walden: "I believe that. My argument is not that it is not going to be fair, my argument is that the perception is that we changed something. In light of all the concern about political people being appointed to the Election Commission we need to be able to articulate and justify why we do everything. I want to make sure that I fully understand everything that I am a part of.:

Chairperson Avila: I hate to open up a can of worms but since we are on the machines, what is the possibility of getting machines that can print out receipts. That's been a concern of some folks in the community that have asked that question.

Administrator Knowles: "That's in the process of being studied by the State Coordinator of Elections. They might have it approved by November or they might not.

Chairperson Avila: "Okay, but it is in the process. That's just on the new machines, I'm talking about the whole vote."

Administrator Knowles: "That's not on the system we have."

Commissioner Walden: "We have a paper trail on the accu vote. Your ballot is the paper trail. The big concern is on the touch screen. Because that adapter has not been approved that will print a receipt. Now we have a stub, a ballot and a count. We have that." This whole thing.... We don't have a paper trail, we are only talking about 4 people out of 13,000." Historically, Bud will tell you that what we see at early voting is very close to what comes out afterward.

This being a snapshot of what its going to look like, we are going to have 14 or 16 people that vote without a paper ballot. It's much to do about nothing but its just like you said, we have all been contacted about why we do not have a paper trail. The technology, if the people don't understand it sometimes they fear it. It the same day with out election day workers. And officers of election. If they can't understand the concept they can't make sure the voters feel comfortable because they don't feel comfortable with it. I do not think anything will happen but the perception of why we did it, and we will have to defend why we did it. If I didn't pay close attention I apologize for that. I didn't realize until this meeting that we weren't going to change all our procedure. I thought it was only the touch screens. I think we should consider voting on that because we have approved voter things. Day to day operations we don't have a say but things that affect the voters and the oversight at the polls I think we do have a say. How he runs the operations which I think is great, I don't think we have a say. I think that may be something we may want to be on record as being for or against.

Administrator Knowles stated that there is no law stating that you have to transmit.

Attorney Summers stated that he handed out at an earlier meeting some paperwork on the penalties. The punishment was increased in many of the offenses. I don't have it with me but several of the punishments were increased.

I believe the incentive for anyone to be over enthusiastic about their candidate... I believe people will think a little more before they do anything.

Chairperson Avila: "Are there any more concerns if not we will hear from the community."

Attorney Summers: I want to say one thing. I've always felt that being on this Commission is an honor. It is a reward for being active and having the confidence of your respective parties. It is a political job and you are here because you are involved in politics. That should in no way impugn your integrity and I merely want to point out that in the ten years that I have been here, be it democrat or republican if there is a question of having any type of issue that this Commission has recused himself. For example, Mr. Walden has recused himself when it came to something involving the sheriff's department. Mr. Quinn is new but he has been involved and each of you has been involved in politics. Ms. Lee would recuse herself if there was an issue involving her mother. Ms. Eddington, her predecessor, her sister recused herself on matters involving her daughter who works in this department. Each of the Commissioners has acted correctly. Last week Mr. Walden got into it and I don't think it has to be defended except that he has always taken the position that he would recuse himself. There is a perception that something might happen but it never has. Not only the legislators who appointed you but the State Election Commission has qualified you. I don't think this Commission is an issue. The only way you could be an issue is if something goes wrong."

Chairperson Avila: "Now we will hear from Mr. Chatman. Mr. Chatman will you please limit yourself to one minute."

Mr. Chatman: "I want to say that I agree with Mr. Walden about the appearance of impropriety to the community. Being a write-in candidate, I really don't have a dog in that race. As far as Dem. Or Rep. but, that appearance is always really prevalent for the community. When they transmitted it in It sort of gave the voters some sort of idea of how many voters voted. Being a write-in candidate, I had to be certified and to me that means that the Commission knows that you are running. So in the write in spot why wouldn't that person who was certified as a write-in candidate be on the ballot?"

Administrator Knowles: You should notify the administrator of elections twenty days prior to the election that he wanted his name to be counted and that's what we are doing.

Shannon Defriese: Your problem is that you are a write-in candidate which means that your name has to be written on the ballot. The ballots are ordered and processed and clearly if you qualify twenty days before an election we could not order ballots and have them disbursed throughout the county instantly. Even a transmission will not give you an idea of how many votes you received because you are not on the ballot. That sheet has to be delivered to our office and those results tabulated here. You will not know but we will get the results faster so you will benefit.

Chairperson Avila: "Are there any more concerns or questions to come before the Commission?"

Commissioner Lee: " I make a motion to adjourn."

Secretary Quinn: "Second."

J. Bartlett Quinn Secretary

APPROVED:

Linda Morris –Avila Chairperson

Dorothy J. Eddington Commissioner

Karen M. Lee Commissioner

Michael S. Walden Commissioner