

HAMILTON COUNTY ELECTION COMMISSION
MINUTES OF MEETING
August 14, 2006

Call to Order:

Upon notice duly given, Commissioner Eddington acted as chair in Mrs. Avila's absence. Chairperson Eddington called to order a regularly scheduled meeting of the Hamilton County Election Commission at 8:10 a.m. on August 14, 2006 at the office of the Hamilton County Election Commission, 514 East 4th Street, Chattanooga, Tennessee. Chairperson Avila joined the meeting late.

Invocation: Commissioner Eddington **Pledge of Allegiance:** Commissioner Walden

Present at Meeting:

Commissioners Eddington, Lee, Quinn 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.

Minutes:

Commissioner Lee made a motion to approve the minutes from the July, 28, 2006 meeting, Commissioner Walden seconded and the minutes were unanimously approved.

New Business:

Administrator Knowles stated: "We need to certify the election and sign the certificates."

Commissioner Lee asked administrator Knowles if they could have the minutes from the meetings put on the website, because she had called a few times and they were stored away.

Administrator Knowles stated that "yes we could do that."

Commissioner Eddington stated that if in the future they were to be able to get the minutes ahead of time and it would save a lot of time.

Administrator Knowles stated that he recommended that we go to the Signal Mountain petition next before we get all the signing so they don't have to wait.

Attorney Summers stated that we had two representatives from the town of Signal Mountain.

A voters group who are not pleased with the actions of at least part of their prior commissioners and they have been in touch with me and they have filed a petition asking to recall four of their commissioners. Mr. Olin and I have had extensive conversations, we have submitted to Brook Thompson and we think everything is in order. I would point out that the law is a little different.... I have a comment on the recycling, I want to make sure that we are on the same page as Mr. Depinto and his group. This particular petition comes under TCA § 2-5-151 and the 1990 Charter of Signal Mountain. And it appears that there are no amending ordinances that would cause this to be determined other than under TCA§ 2-5-151 which requires that the petitions be signed

by at least 15% of those registered to vote in a municipality. Since there have not been any amendments under subsection J. The City of Chattanooga matter is a little more complicated. Ms. Mullis informs me she believes that based on this requirement will need approximately 857 legitimate signatures from reg. voters from the Town of Signal Mountain in order to get this on the ballot. Also the time frame... there is no ordinance since 1990 so they have a short period of time to get it. Ms. Mullis... the same as Depinto... at least 75 days so I think they have a fairly short period of time. I have talked to Mr. Olin and I believe that Mr. Olin and possibly one member of his group are here and under the law we have to have one of them to present the petition and I believe that it is in order. It is a very lengthy petition but what is on the petition will not be on the ballot. The grounds for this petition is very lengthy and they have stated all that and that is contained therein and I think that Mr. Olin is an attorney so that may or may not help a little bit. It may make it more clear or confuse it but I think he is doing a good job. I've been over it with him and also been over it with Brook Thompson's office and it would be my recommendation that you do allow it to be filed and due to the shortness of time, not take the 30 days you are allowed under the law. That will be with consistent with your policy of trying to help these people who want to do these things.

Legal Matters

Chairperson Avila asked attorney Summers if we needed to vote?

Attorney Summers stated yes, you need to vote that their petition is in order and therefore they can start taking signatures to be able to get it on the ballot in November. I do think they put on here some clarifying language. You are being asked to sign this petition in order to place this question on the ballot. What will go on the ballot is the short form if they get enough signatures for the November election.

Chairperson Avila: I was e-mailed this information and I notice that they only need six thousand?

Attorney Summers: "No, that's a different one. I'll get to that in just a second. There is a legal issue and I want to make certain that the other people... I have told Mr. Depinto so if we can get this one out of the way then I will briefly describe the other. It appears that they will need 857 signatures from registered voters to get it on the ballot."

Commissioner Lee made a motion to include the wording that attorney Summers has given us and include it on the ballot. Commissioner Eddington seconded.

Attorney Summers stated that there was someone who wanted to address the commission.

Teresa (inaudible) stated that she appreciated that the Commission was looking at this today and that yes, they are under time constraints in order to get this on the ballot and they appreciate it.

Attorney Summers stated that on the recycling matter: "I sent you a another memo Madam Chairman and members of the Commission about the recycling matter. The General Assembly in its infinite wisdom often causes problems that they think they are solving. The law which I stated with Signal Mountain normally says that the petitions be signed by 15 % of those registered to vote in a municipality. Based on those figures Ms. Mullis provided me, there will be approximately 13,196 valid signatures to get their

initiative on the ballot. However in 1990, the legislature in subsection J passed after probably under some pressure that they felt that it was very difficult with that high percentage to properly get a question on the ballot. They passed paragraph J which is an amendment which states that after July 1, 1997, a municipality or county has a charter provision that was enacted after that date shall control respective to the requirements of subsection D relating to the statutory minimum signatures required in the petition and the provisions of subsection 1 relating to the 75 day deadline for filing the petition after final certification by the Hamilton County Election Commission. That just basically says that you can change the percentage necessary to allow an issue to be placed on the ballot which may result in it being an ordinance or to shorten or lengthen the period of time. The City of Chattanooga has not enacted a specific amendment involving those two issues. But in 2002 the City of Chattanooga readopted all of its ordinances in Toto. The Chattanooga Charter provides that it shall be a proposed ordinance may be submitted to the Commissioners by qualified voters in the said city and equal to number of 25 % of all votes cast for candidates for mayor at the last preceding general election. Well, according to the figures given to me by Mr. Knowles and Ms. Mullis, 25,488 registered voters voted in the last mayor's race. That would mean they would have to have 6,372. However, under state law the figure they would have would be the total number of registered voters in the City of Chattanooga would be 87,972 divided by 15 % results in 13,196 signatures required to get the initiative on the ballot. Now, Mr. Thompson and I have conferred on this and I told Mr. Depinto that the safe thing to do is to get the higher number. He indicated that he was going to try to do that but if he does not I think he is going to assert that 6,372 would be enough to get it on the ballot. The bottom line is and I know that Mr. Walden cringes when I say this out of his fiduciary concerns over my attorney fees, if he does not get the 13,000 number then there is a legal issue and the city, whatever their position may be, if they don't think...then they may have a legal challenge. I merely point that out to you. There is nothing we can do about that. We would not be challenging. At this point there is an ambiguity that you would think because they did not adopt those specific ordinances but readopted the whole code, in essence probably the lower number would not apply and the lower number would take precedence. I think that Mr. Thompson and I tentatively think that's probably what they need to do. They have always been acting on the presumption that they need to get the higher number but sometimes these initiatives don't turn out.. "

Commissioner Walden: Do we need to get an opinion?

Attorney Summers: "Well, we could possibly ask for a state attorney general opinion.

Commission Walden: "I think that would be wise."

Commissioner Lee: "Let me make sure I understand this, we have already decided to put it on the ballot.

Attorney Summers: If they get the required number of signatures.

Commissioner Lee: So at this point we are trying to determine how many signatures.

Attorney Summers: Right

Commission Lee: That's a City issue, is it not?

Attorney Summers: Well, it is a city issue that they may or may not raise. If nobody raises the question... I think there are hot feelings on both sides of this issue that somebody is going to raise the issue. So it may need some clarification at this point as Mr. Knowles and I talked about, getting an opinion from the attorney generals office might be of some benefit.

Commissioner Lee: Okay, if the City Attorney (tape change) (lost conversation)

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Attorney Summers: Ms. Lee, you have raised a very interesting question. I conferred with the city attorney and Mr. Nelson merely pointed out what they did in 2002 when I made inquiry as to whether they passed any new ordinances that would bring this within the confines of subsection J or 2-5-151 and his comment was that is what they had done in 2002, they had readopted the code. He was not inclined to render an opinion as to which section would take precedent. TCA 2-5-151 or section 1125 of the Chattanooga City code. I would think that the powers that be in the city of Chattanooga if they were so inclined would make that inquiry of him to give an opinion. But he was not so inclined to do so during our discussion.

Commissioner Lee: I understand

Chairperson Avila: In order for them to be more expedient with the petition it would be better for us to get an opinion.

Attorney Summers: I think I could make a request of the attorney generals office. We work closely together. I think they would respond favorable to getting us an opinion. They have 840 signatures so far so if we could expedite this fairly quickly ...but I told Mr. Depinto that he should go for the high number, and if he has the high number then the City has no say so.

Chairperson Avila: Do we have any other questions on this matter?

Attorney Summers: Madam Chairman I guess you need to authorize me to seek an attorney generals opinion if that is the will of the body.

Commissioner Eddington make a motion to get the attorney general opinion, Commissioner Walden seconded.

Quentin Howard (Hazlett, Lewis & Bieter, PLLC) addressed the commission re: the audit of the August 3, 2006 election and explained the bill to them and recommended that the commission certify the election at this time.

Commissioner Eddington made a motion to certify the election and Commissioner Walden seconded.

Chairperson Avila stated that she would like to commend the staff and Administrator Knowles for doing a fine job in organizing the election process after the ballots came back in to us. There were no problems and just wanted as the chairperson to commend you all on a well done job.

Commissioner Walden asked how many people voted on the touchscreen machines. Administrator Knowles stated that there were 26 and that two were staff members. Commissioner Walden then asked how many total people voted? Quentin stated that 50,968 people voted.

Chairperson Avila asked if there were anymore legal matters?

Administrator Knowles reminded the commission that there were more certifications to sign.

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Adjournment Commissioner Eddington made a motion to adjourn and the Commission agreed.

Next Meeting:

The next meeting is scheduled for Monday September 11, 2006 @ 8:00 am.

J. Bartlett Quinn Secretary

APPROVED:

Linda Morris –Avila Chairperson

Dorothy Eddington Commissioner

Karen M. Lee Commissioner

Michael S. Walden Commissioner