

**HAMILTON COUNTY ELECTION COMMISSION
MINUTES OF MEETING
April 27, 2009**

Call to Order:

Upon notice duly given, Commissioner Walden called to order a regularly scheduled meeting of the Hamilton County Election Commission at 8:00 a.m. on April 27, 2009 at the office of the Hamilton County Election Commission, 700 River Terminal Road, Chattanooga, Tennessee.

Prayer: Commissioner Lewis

Pledge of Allegiance: Commissioner Bennett

Present at Meeting:

Commissioners Walden, Bennett, Lewis and Summers were present at the meeting. Attorney Chris Clem, and the staff of the Election Commission, as well as members of the media. Commissioner Anderson came in 8 minutes into the meeting.

Election of Officers and Attorney

The Commission voted again on the election of officers and the attorney.

Commissioner Bennett made a motion to elect commissioner Walden as Chairman; commissioner Summers as Secretary and on recommendation of Administrator Knowles make Chris Clem the attorney.

Commissioner Lewis seconded. The motion was unanimously accepted.

Approval of Minutes

Commissioner Bennett made a motion to approve the minutes.

Commissioner Lewis seconded. The minutes were unanimously approved.

New Business

Budget

Administrator Knowles stated that it was a good budget and he thought we can work with this budget.

Commissioner Bennett made a motion to accept the budget

Secretary Summers seconded. The motion was unanimously approved.

Certification of Results

Quinton Howard stated that it was a good election and provided a copy of the audit report to the commission. **(SEE ATTACHED)** He also recommended that the audit be accepted.

Commissioner Bennett made a motion to accept the audit.

Secretary Summers seconded. The motion was unanimously approved.

Certification of Expenses

Administrator Knowles stated the City got a good deal because we used our staff for early voting. **Chairman Walden** read the expense report aloud. **(SEE ATTACHED)**

Commissioner Bennett made a motion to accept the expense report.
Secretary Summers seconded. The motion was unanimously approved.

Frank DePinto recall

Secretary Summers stated that before Mr. DePinto gets started he was going to recuse himself from voting because it contains language about Orange Grove, and he had been on the board there.

Mr. DePinto stated that he had a handout (**SEE ATTACHED**) to give the commission. Attorney Clem also had a handout on this matter. (**SEE ATTACHED**)

Mr. DePinto stated that he had worked with Mr. Clem and Charlotte Morgan for the past three weeks and previously with Mr. Summers on this and concerning the statutes §2-5-151 and §3-18 of the City code. In the packet given to you there are two formats that can be used. One is a single page and the other is a front and back. This is the format we used previously. The first statute is §3.18 of the City code states that 50% which would be 9387 would be needed and this is from the 18,773 voters that voted last time.

Mr. DePinto further stated that the statute §2-5-151 states that he will need to get 14,859 registered voters out of the 99,058 that are registered. I was told to make this petition legal I would need both the City and the State numbers.

Attorney Clem further stated that there was some disagreement; Mr. DePinto thinks that once he gets the required signatures that the mayor is automatically recalled and there will be a new election within 60 days and he can run again in the new election. I have consulted with the city attorney and looked at the both code sections and Nashville. They are both in the belief along with myself that once you get a qualified petition that has been certified, there is going to be an election for a recall yes or no do you want to recall Ron Littlefield as Mayor of the City Of Chattanooga, and then you have to get the citizens to vote for that first. That question clearly needs to be placed on that petition.

Chairman Walden asked if he understood this right. The petition has to get a recall election and once you have that, the recall election will be held and that will decide if he is to be recalled.

Attorney Clem stated that the city code does not state that, but the state code does. He further stated that the same thing happened on Signal Mountain. They had a recall petition and then had a recall election and then the election. One maybe two people were recalled. It is my opinion that this is the way it should be handled with the City of Chattanooga because even though it is a different city charter, it is the same state code.

Secretary Summers stated there is a question based on prior procedure on if you should get 9,000 or 14,000. Previously you were advised that if you wanted to discourage litigation, you were safer getting the higher numbers.

Commissioner Lewis stated that if the last sentence was stricken from the petition would the petition be legal.

Attorney Clem stated that if Mr. DePinto is right and you do not have to have an actual election saying should Ron Littlefield be recalled, then it would be fine with the last sentence stricken. If I am right and the way we have done it in the past, you do need to put in the petition the question that will be on the ballot. Meaning, Shall Ron Littlefield be recalled as Mayor of the City of Chattanooga? Yes or No. That needs to be on the petition if a recall election is required.

Secretary Summers stated he thought the petition should be sent to the coordinator of election and it would clear everything up.

Commissioner Lewis made a motion to table the petition until the next meeting so we could get clarification on it.

Commissioner Bennett seconded.

Chairman Walden stated that our responsibility here is to help you and shepherd you through getting your petition on the ballot and our mandate is to make sure we follow state law, and this commission with four attorneys on it we try and make sure we do it right the first time. Chris will get this to the state and try our best to have a clear position on May 13, 2009

Mr. DePinto stated that he would appreciate someone contacting him before the meeting so he could feel comfortable and be on the same page.

Attorney Clem stated that Mr. DePinto had his email as well as phone numbers but that he would get in touch with him next week.

Commissioner Lewis asked when the 75 day deadline was.

Attorney Clem stated that it would be from the time the petition was certified here for him to get his signatures. This is also in the state code and I can give that to him also.

Chairman Walden stated that we have a motion and a second to table this until the May 13, 2009 meeting all in favor.

Commissioner Summers abstained. The motion was unanimously approved Motion passed.

County Personnel Manual and Discussion

Chairman Walden: Okay, selection of chairman and selection of counsel probably should be brought up.

Commissioner Bennett stated: I don't know if it's necessary because we had a number of commissioners who were properly certified but to be on the safe side, I would like by acclamation to affirm the chairman, Mr. Walden, Mr. Summers be moved over to Secretary, Mr. Clem be our attorney.

Secretary Summers: I'm not here to be an obstructionist. You are doing the right thing. First of all, I understand at the time we voted; that commissioner Lewis had sent his in, Commissioner Walden's was received the morning of the 14th. Bennett's had not been received but he could be considered a carryover which would constitute. Mr. Anderson was here late because he did not get notice and

so to eliminate the issue... and let me say this. It is my deal with the state coordinator of elections; they have different viewpoints just like we do. Not everything is written in stone. But the carryover...Mr. Bennett status is traditionally they have allowed carryovers.

Chairman Walden: So I could have been a carryover as well?

Secretary Summers: You could have but yours was received the morning before the 14th. while actually mine came in on the 15th. Obviously the mail was the situation so I think you are eliminating an issue here and obviously that's what we want to do, eliminate issues. The same thing with Mr. DePinto so technically two had been certified and one could be a carryover. I think with this action you eliminate that question whether it was duly constituted. I have some other issues.

Chairman Walden: Okay

Secretary Summers: The part about Mr. Clem. I think there has been a misunderstanding. I don't object to Mr. Clem being counsel. I believe the majority should have their own counsel. I do want to point out to you though that the law requires TCA §2-12-116 the commission upon the recommendation of the administrator. My understanding is that Mr. Knowles was not consulted. I make no issue to that only as to the situation that the administration should be consulted on that because that gets into this whole picture of responsibility and like I say, I will work with Mr. Clem, I told him we would work together, I think the majority has the right to have their own counsel. I think that in the future... we had two new commissioners; well actually Mr. Anderson was not here but Mr. Lewis.... This is just something that I think procedurally wise, will eliminate some matters in the future.

Chairman Walden: Bud, when you were hired as administrator of Elections, were you asked which attorney you wanted?

Administrator Knowles: No

Secretary Summers: Mine was a carryover

Administrator Knowles: I would like to relinquish the responsibility of the hiring and firing. I could care less. It means nothing to me.

Chairman Walden: Well, on that issue I think Jerry was actually a carryover from when I was put on the commission ten years ago so he's been here longer than us.

Secretary Summers: I've been here a long time. I was just saying that if that's what the law says... if we have some of these people who filed lawsuits and obviously that involve taxpayer's money every time it's done. I'm not trying to cut out on Chris. I think his philosophy and mine is he's going to do his job and obviously

we try to keep down lawsuits because it's the taxpayer's money. I think that procedurally that step should be considered.

Chairman Walden: Okay Bud, do you have a recommendation for counsel?

Administrator Knowles: I recommend Mr. Clem.

Chairman Walden: I guess based upon the recommendation of the Administrator of elections we can amend the motion.

Commissioner Bennett: I'll be happy to do that. I make a motion that Mr. Walden is chairperson; Mr. Summers can become secretary and based upon the recommendation of the administrator that Mr. Clem be installed as counsel.

Commissioner Lewis: Second.

Chairman Walden: We have a motion and second. Any further discussion? All in favor say aye. Opposed? The motion carries.

Now the issue at hand will be the county personnel policy as it relates to the Hamilton County Election Commission. The chair recognizes Mr. Summers.

Secretary Summers: Once again, I fully recognize that if three members of this commission want to change this policy they may do so. This is not something new. In going back over my voluminous files, it first came up in 1980 during Mr. Rick Wilson's administration. This is correspondence from Mr. Husky from Rheubin Taylor which says clearly: this past August during an impromptu meeting, Mr. Rick Wilson mentioned to me that the Election Commission expressed a desire to draw from the Hamilton county personnel system. I relayed the message to Dalton Roberts who concurred that it was unfortunately perhaps in the best interest of both entities. I expressed to Dr. Wilson that we would nevertheless be willing to offer other indirect support, payroll record maintenance that we have been doing for other officials such as the criminal court clerk that are not within our personnel system. This is the most economical because it eliminates wasteful duplication of efforts. That was signed by Michael J. Mann who at that time was the county attorney. It goes on further in 1993 there is a memo. I think you have all been given this. I want to point out there is something else that comes up. We are under the open meetings group and I am not faulting anyone but after the meeting adjourned for three commissioners to discuss this might technically have been a violation last week. I am trying to keep down...you know the times is very sensitive about these things. I'm not saying that anybody had any bad intentions; I am just saying it's something that probably ought to be thought of because they are very sensitive about these things. Because we are a private entity not a public entity such as Walden Security. Owned by and operated by Ms. Amy and Mike Walden, one hundred percent.. Anyway, in February, 1993, there was a resolution to approve the adoption of the Hamilton County Personnel rules and regulations. It kept coming forward. In 1992 this correspondence to Fran Dzik about this matter, the minutes of our meeting....

Chairman Walden: What year was that?

Secretary Summers: 2002 it came up and 2003 this came up, duly signed by Michael Walden, Secretary. These are the minutes of that meeting and look at the second page having been brought up about this. In February that was dated on March 25th. Prior to that there had been to the County Commissioners from Bill Knowles that was adopted where the various county agencies were an option to opt out or come under the Hamilton County Personnel and you will notice that there were several agencies that did opt out not to be under, and specifically the Hamilton Election Commission was one of them.

Chairman Walden: On March 25th, 2003, personnel policies manual, Attorney Summers advised the commission that the revisions of the personnel manual had been condensed in the manual and he requested that the commission instruct him as to adopting county personnel policies. What that doesn't say in that discussion, Jerry, that was a three two vote that I think that myself and commissioner Kliner were for going under that plan. On the opt out that you were talking about on Hamilton County policy, that was the pay plan. Wasn't that what they were opting out of because it cost money to participate in that and the election commission at that time did not want to participate in the pay equalization and the studies that were going on.

Secretary Summers: That was one of the issues, there were others. The bottom line is you had the resolution by the election commission to follow on, dated February 22, 1993 and it was signed by everyone. At that time Mr. Knowles was the chairman and it says: a resolution enabling the Hamilton County Election Commission to follow the county's personnel rules with certain modifications. That's the one you all discussed after the meeting the other night. Now, this meeting the 14th, with all due respect I don't think Mr. Lewis, Mr. Anderson, I wasn't, or I think anybody else was told this item was going to be put on the agenda. It had not been discussed with anyone, with the office and so forth, and I want you to understand that I'm not saying that this cant be done. I want you to understand where I'm coming from. This is a very important matter and it needs to have input and be studied. Things have changed since 2003. The employees, I think they should have some input at least whether they want to be under it. Maybe a secret ballot. This is a public entity and we get into a lot of time and money that was paid out to have a personnel policy with great detail and outside counsel was brought in and approved and what is now your present law firm, counsel, worked with our firm and we had a lot of discussion back and forth. I realize it was a three to two but the county personnel has been doing a lot for the election commission. I'm saying to you that obviously I think this needs to be studied a little. Your votes still stay the same and they will be the same. It needs to be more than being put on what we thought would be a very short meeting to actually be here to monitor the city elections and that's the will of the body and if anything can be worked out it can be done. I just respectfully submit to you that there was no notice of it, and also this commission has previously dealt with a new chairperson who wanted to make some very rapid changes. I believe you will agree with me. We adopted Roberts Rules of Order and again I don't fault you for wanting to put this on the agenda, but until we say we aren't going to follow Roberts Rules of Order, they are kind of a carryover. If you remember when that happened under a previous democratic chairperson who tried to change some things very rapidly, as I recall I emphasized Roberts Rules of Order and I believe you agreed with me.

Chairman Walden: I don't remember that. Refresh my memory.

Secretary Summers: When people are gone, I don't like to call their names but I believe it was the predecessor before Ms. Eddington, I believe. They wanted to make some significant changes and there were some concerns whether that should have been done unilaterally by the commission. We indicated that Roberts Rules of Order was what we wanted to follow and I've been under this impression the whole time. Now, if it's going to be changed, then we need to bring it up and change it. The Chair under Roberts Rules of Order can not normally make a motion and they cannot direct someone else to make a motion. Obviously if we look at this in some detail and everybody feels the same way, someone can make the motion and if it is seconded and it passes by three votes then we don't have any kind of problem. If it's going to be done, if there was an employee that wanted to bring it... I know you say it's the law until someone goes into chancery court, I don't think that's really what we want to do. That's always been my aim when I was counsel and I think its Mr. Clem's. He has a law practice to take care of and I had one and we tried to eliminate those problems. I really think there is some question as to the legality at that point. I would merely ask that you would consider...you still have the votes and it wont make any difference just look into this so that Mr. Lewis would know something about the history of this and particularly Mr. Anderson. And Mr. Bennett is kind of the new kid on the block with all due respect.

Commissioner Lewis: In 1993 the total was changed to amend that policy. Correct?

Secretary Summers: Mr. Lewis, the Election Commission has always been more independent. They have helped us on the finances and things of that nature

Commissioner Lewis: What I'm asking though is what prompted, the document you gave here, 1993, was the change to the Tennessee Code. Correct?

Secretary Summers: Yes, there was a change to the code.

Commissioner Lewis: Then my next question is if you signed in February, then the law had to be passed in January.

Secretary Summers: It didn't have to be passed, it could have been introduced. It could have been passed in April or May

Commissioner Lewis: You are talking about having a time line. What was the time line?

Secretary Summers: There was a lot of hew and cry from the criminal court clerk because they were elected officials should they be brought into this? Then you get into what is the definition of an administrative election? Then when the officials here in Hamilton County wanting to maintain their autonomy, they were allowed to be exempted out and the election commission elected to be exempted out

Commissioner Lewis: In reality we would not have to go to chancery court since it is an option not a mandate.

Secretary Summers: No sir, I think its very simply that if this Commission says we want to change and go back under it, it is the commissions option. I am just asking that we study this and get the input and everybody knows exactly.

Commissioner Anderson: I would like to offer a caveat; I hope this commission would extend merit protection to non executive personnel of the commission.

Secretary Summers: That is contrary to the personnel policy that the employees have always been considered "at will" employees. That doesn't mean we don't need to change it. Which ever way we go historically we have had very few problems with personnel. They have been handled. Now, in light of the most recent opinion of the attorney general....Of course, the republicans have taken control of the legislature that's why there are three of you. That's getting us on this commission after that our duty is to insure that people have a fair right to run and have a fair election. The attorney Generals office has many opinions which may or may not be applicable to this. Whether a county election administrator can be dismissed solely on the basis of party affiliation. (SEE ATTACHED)That throws something into the pot. Mr. Knowles and Ms. Mullis-Morgan have worked together carefully and try to do what's right. When they need to call a lawyer they call me and I'm sure they will call Mr. Clem. I just think that this thing needs to be studied a little more. I am not saying this as a criticism of the chair, it's just something that came up and we should look at it a little more carefully. I just think there should be a lot more input on this before you make such a drastic change. This is not a case where we have had employees that have been mistreated. In fact, we have bent over backwards. We have had one or two matters that we gave due process hearings. I thought we had put that in there but evidently we didn't. I think we go as far or further than the county. We have had a couple of lawsuits, both of them were successful. Mainly because if an employee has a grievance and they go to Mr. Knowles and if they cant get a satisfactory answer they have been able to come to this commission. Having said this, I hope we can study this a little bit more. I don't think it will adversely affect anything. This is not being said to embarrass anybody, it's just something that should have been noticed and the commission should discuss it in open meetings and so forth. Its in the best interest of both parties and the employees and may potentially eliminate expensive litigation in this county and that's what I would respectfully ask you all to do at his time.

Commissioner Anderson. In regards to both counsels, in reference to attorney general opinion dealing with constitutional protection, for persons who were discharged solely on the basis of party affiliation. I would simply point out with regard to non-executive level personnel; it is clearly they only perform miniscule duties In light of that opinion as well as one of the ammunicions of the election commission probably wants to conduct its affairs in a manner that causes the public to have great confidence in those elections. One of the ways that might be accomplished is to give to those low level persons, solely miniscule affairs, non-executive personnel, their protection.

Chairman Walden: Thank you Secretary Summers, Commissioner Anderson

Secretary Summers: I would make a motion that we reconsider the vote of last week and let it be studied and if you want to set a meeting next week or two weeks as we consider adopting the personnel manual of Hamilton County at this point.

Commissioner Anderson: I would like to ask to amend that motion to include getting something actually done. I would like both parties to form an ad hoc committee to come back and make a recommendation and present it to the body. And at that consideration should be whether or not to include merit protection to non-executive personnel.

Chairman Lewis: Would that not be a violation of the sunshine law?

Commissioner Anderson: To have a committee to report back to the body? No, you can have committees.

Commissioner Summers: If we are not going to vote to discuss this as a committee, I think the press might be entitled to come.

Commissioner Walden: I think we can discuss it here. Do you have a motion? Someone will have to second it.

Commissioner Anderson: I will say I think we will want to have counsel from the county attorneys office.

Administration Knowles: The election Commission could still have their own private attorney?

Commissioner Anderson: What you would want to know from the county attorney is, are there disadvantages to doing that.

Chairman Walden: Let me speak to this and I may answer your question. I think there may be some misunderstanding as to how the Hamilton County Election Commission would function under the HR policy of Hamilton County Government. What I see in the past years is we are funded by the Hamilton County Government. Our employee's insurance policies procedures, EEOC, our pension plan, payroll, and holidays are all done by Hamilton County Government. I agree 100 Percent that the Administrator has the final hiring authority. He gets to choose his staff and that is his decision. My concern is there are two political appointments that serve at the pleasure of the commission. Only two people in this building and that would be the Administrator and his deputy. Those are the two, in my opinion, that would serve at the pleasure of the commission. I have been very pleased with Mr. Knowles up to this point and Charlotte, they work well together and we have a good office. The administrative personnel, the clerks, the deputy clerks, the computer guys; I agree with you 100 percent that they should have the same protection as every Hamilton County employee. They should be afforded every right as any Hamilton County employee. I do not think whether they are "at will" or not. I think they are still "at will" but they should still have those protections that anyone would have as an employee of Hamilton County government. I would like the employees of the Election Commission to be treated exactly like any other employee, no better, no worse. I think they should share in the successes of the county; pay rate, raises consistent, fair and equitable for every employee of Hamilton County government should be treated the same. If there is an opening for a position at the Hamilton county Election Commission, what I would hope would be that that job would be posted at the Hamilton County HR department. Every citizen should have the right to apply for that job and compete for that job based upon their qualifications. That is not the way it is currently done. That is the point that I take exception with. The way it is now is that any Administrator can choose without a fair selection process any employee to work in this office and that prevents every citizen of Hamilton County the fair opportunity to apply for that job. At a time when jobs are in scarce demand, every citizen should have the same rights to compete for a position in Hamilton County government. I still think once you apply at the Hamilton County HR department, and

you go through the selection process and the screening process and all that and they put five candidates forward, I think Bud should have the right to choose based upon the five qualified people but I don't think you should be able to arbitrarily pick one person and deny everybody in Hamilton County the right to apply for the job.

Commissioner Summers: Who will pick the five to recommend to Bud?

Commissioner Anderson: Nobody.

Commissioner Summers: What if they have twenty?

Chairman Walden: They can select the twenty and bring them to Bud.

Commissioner Anderson: The County basically has two classes of people. One is associated with patronage advantage they come under elected officials. How we are treated or would be treated by them would come under that scenario. All they so all they do is process your paperwork. They take your application and do what they want to do. They do not rank, they do not pre-screen, and they do not do any of that. The other set are those who do come under Merit Protection. For example, employees of the Sheriffs department come under this. What has happened, as Jerry alluded to, when you have elected officials have not been willing to give up the patronage advantage to seek re-election and as a consequence, their persons have no Merit protection, their applications are not sorted or ranked. All personnel does is process the applications and give it to them and they do whatever they choose to.

Commissioner Lewis: That's under an elected official. That's not what we are talking about.

Commissioner Anderson: That's what would happen here if you did not specifically ask that those services be provided.

Commissioner Summers: We may want to consider what I proposed back in 2005 to change this manual, it was the opinion of one of my lawyers that it jeopardized §2-12-201 dealing with the rights of the authority of the administrator of the Election Commission. What you're saying can be accomplished, by put in appeals right here instead of doing the way you want to. It may be the best way. I don't care. I'm saying lets discuss it after all the possibilities and then come up with what we as a consensus with what we agree is the best protection for the employees that does not hamper or hamstring the administrator and what helps us fulfill out duties as commissioners.

Chairman Walden: Thank you. How many employees are in Hamilton County Government?

Administrator Knowles: 500 plus

Chairman Walden: How many employees are there at the Hamilton County Election Commission?

Administrator Knowles: Thirteen.

Chairman Walden: Do we really need our own individual personnel manual for thirteen employees or can we not treat those thirteen with the same dignity and respect as the other five hundred or thousand employees.

Commissioner Summers: It's not that simple

Chairman Walden: Why isn't it Jerry?

Commissioner Summers: There are different things here. Our employees work at night during elections and that has to be taken into consideration.

Charlotte Mullis-Morgan Hamilton County employees work at night.

Chairman Walden: And they have comp policy for that also and they have overtime within the budget at the discretion of the administrator. Bud still gets to run it.

Commissioner Summers: If you feel that this had been studied enough and you want it to stay and it does, then so be it. I'm saying it was adopted without sufficient study, it did not have input from the administrator or his executive assistant or the commissioners., With all due respect, it is now 9:15 which means it been about an hour of discussion and I respectfully submit to you that there has not been enough study for something this important. Lets at least create the impression that we are passing something that has been duly considered and not just suggested by the chairman which may not have been proper under Roberts Rules of Order and then direct someone who does not know anything about it to make a motion. It smacks of something that I will give you the benefit of the doubt that you did not intend.

Chairman Walden: I agree.

Commissioner Summers: Do it that way and we can get the bugs out of it and the majority may come up with something entirely better than what we have here on very short notice of study.

Chairman Walden: Bud, do you have any questions or concerns in following the policy as long as you have the ultimate hiring decision?

Administrator Knowles: I would appreciate you taking the hiring decision away from me.

Chairman Walden : Charlotte?

Charlotte Mullis-Morgan: I feel that we are already under it. We follow their payroll, we follow their handbook..

Chairman Walden: But you don't follow their handbook. You have your own handbook.

Charlotte Mullis-Morgan: We have our own to a certain extent. Disciplinary action goes through this book here.

Chairman Walden: Which has no protection for the employees.

Administration Knowles: I totally disagree in firing a person at will. I think there should be an appeal and a hearing because firing someone is a very serious matter.

Chairman Walden: Have we fired anybody in your administration?

Administrator Knowles: No Sir.

Commissioner Summers: You can adopt that change that I proposed and I thing you would solve most of your problems but if that the way you want to do it, fine. Let's just talk about it.

Chairman Walden: Jerry, I don't see that there is any revision. We just adopt the Hamilton County HR policy and procedures that are afforded to all the employees. We treat everybody the same.

Commissioner Summers: I don't know if their appeals procedure is the same. What is your problem with a delay of 30 days. What is the problem with studying it? It seems to be a fundamental fairness Mr. Chairman. I am not trying to make you look bad as Chairman. It was brought up without people knowing about it and it needs to be studied.

Chairman Walden: You and I have had the benefit of hours of discussion on this and I am the Chairman and I can't make a recommendation and I am going to yield to whatever this body decides and call for the vote and only vote if necessary.

Commissioner Summers: Thank you for bringing that up. If someone wants to make something out of this beyond what we are talking about. If someone says "you can't fire me, you adopted this policy". If historically, we did not change the Roberts Rules of Order, this is a safety valve for your actions. If there was a technical violation, let's do it the right way.

Chairman Walden: Setting through a personnel hearing is not my responsibility as an election commissioner and we are required to vote on a hiring and firing, that's for someone else. I did not think that was my responsibility as an election commissioner. I think there are HR professionals with Hamilton County government that assist the administrator of elections that should make that decision. My understanding of my job is that we have fair and equitable elections and that everyone gets the opportunity to vote and we do everything we can to increase the voter turn out.

Attorney Clem: I don't anyone is debating the fact that you have the discretion to go either way on this. My concern is that you do vote again. I believe the last vote was valid. I am not concerned about the Roberts Rules of Order. I believe there were three commissioners here that were authorized to vote. But since there is an issue about that, both Roberts Rules of Order and on J.B being a holdover, whichever way you go, I recommend you vote again, today or May 13th, so there will be no question on your action.

Chairman Walden: Whatever the commissioners will is I am fine on that. Jerry has said his piece and I have said part of my piece. This is a fundamental right and wrong and the protection of the employee's position. It is my belief as a commissioner that regardless of what party has control of the legislature, the employees, the rank and file of the Election Commission should be protected in their position regardless of the legislature. They are "at will" employees that work for Hamilton County government that includes to benefit from pay increases, increase in benefits that all the employees have. The other point is simply to restate that every citizen should have the right to apply for a position, should there be one, regardless of which party is in power. Now however we get to that point, I'm fine.

Commissioner Summers: My motion is to pass this to the next meeting so that Charlotte can check into things and attorney Clem can check with Hamilton County.

Chairman Walden: That's a motion. Second?

Commissioner Anderson: Seconded

Charlotte Mullis Morgan: Mike, there won't be any problem with the county, if we tell human resources we have a vacancy and tell them the qualifications, they will choose five or six people. They will bring them to Bud and he can make the choice isn't that what you are basically trying to do?

Chairman Walden: Absolutely. Everybody should be treated the same.

Chairman Walden: It will be put on May 13th agenda.

Commissioner Summers: Are we going to use Roberts Rules of Order or not.

Commissioner Lewis: I make a motion to reaffirm using Roberts Rules.

Commissioner Summers: Second

Chairman Walden: Motion passed.

Legal Matters: There were no new legal matters at this time

The meeting was adjourned

Next Meeting: Wednesday May 13, 2009 @ 8:00 am

APPROVED:

Jerry Summers

Secretary

Michael S. Walden

Chairperson

JB Bennett

Commissioner

Jeff Lewis

Commissioner

James Anderson

Commissioner