

**HAMILTON COUNTY ELECTION COMMISSION
MINUTES OF MEETING
October 6, 2010**

Call to Order:

Upon notice duly given, Chairman Walden called to order a regularly scheduled meeting of the Hamilton County Election Commission at 8:00 am on October 6, 2010 at the office of the Hamilton County Election Commission, 700 River Terminal Road, Chattanooga, Tennessee.

Invocation: Commissioner Braly **Pledge of Allegiance:** Chairman Walden

Present at Meeting:

Commissioners Walden, Summers, Braly and Attorney Clem, were present at the meeting, as well as the staff of the Election Commission. Commissioners Anderson and Bennett were not in attendance.

Approval of Minutes

Secretary Summers made a motion to approve the minutes
Commissioner Braly seconded.

New Buisness

New Commissioner

Chairman Walden welcomed Ruth Braly to the commission.

Early Voting Sites

Administrator Mullis-Morgan stated that in the past we have had three sites and there was one area that wasn't covered. It was the Apison, Collegedale, Ooltewah area, so we have found a place to have it in that area. We have Brainerd Rec, Election Commission, Northgate Mall and now at Eastwood Church.

Secretary Summers made a motion to accept the new Early Voting Site.

Commissioner Braly seconded.

Legal Matters

Attorney Clem stated that there are a couple of matters, the first one being I understand that you have workers already designated for the sites and don't you have to replace some at the last minute?

Administrator Mullis-Morgan stated that yes we have that going on all the time.

Attorney Clem stated that he was speaking with Beth Henry Roberson about another legal matter and she said most other election commissions meet several times before the election. He further stated that we usually have designated that to our administrator. Beth Henry Roberson stated that was okay but she wanted it brought up to you so you would be aware. The second is Beth Henry Roberson requested that we consider meeting again before the election. The people with the recall have given myself and Beth Henry Roberson a copy. Both Beth Henry Roberson and myself have an opinion on how it should be drafted. Be sure you understand the two step process and the three step process; Judge Hollingsworth didn't really address that process. Attorney Clem also stated that both he and Beth Henry Roberson believe that two step process would be enforced meaning that once you get the number (15,000) that it would be an automatic recall and the next thing would be who the mayor would be. We are not clear on that and that when advising these people what petition to approve that we should draft the petition in such a way that it kind of goes both ways. That at the top of the petition it says it could be a two step or a three step process. They have asked

us what would happen if we went with the two step process and I have said that the mayor would argue it should have been a three step process and visa versa on the three step process and needs to be thrown out. We think it should be written in a way that a judge could interpret it both ways. The state election commission has asked that we give them another week or two before they come back and approve this petition because Mark Goins (State Election Coordinator) wanted a little more time before he approved the petition they have submitted.

Secretary Summers stated that this matter has been dealt with, the courts have dealt with it, and I have been on this commission longer than anyone and as lawyer and we have always tried to accommodate citizens in the electoral process. There reaches a point when you have to look at things realistically. It has been established now by the courts what the number needs to be. But we are dealing with the situation effect on the employees of this commission. We do not have to have a special election and that would cost up to a \$100,000.00, But during this process, how much did our employees spend on this (over time, regular time) that is going from their regular jobs it is in the neighborhood of between \$50,000 and \$60,000. There is division in the law regarding frivolous lawsuits, at which costs can be taxed against an unsuccessful party and I think they need to be aware of that.

Commissioner Braly stated she didn't really understand what we could do, because the election commission is here for things like that.

Secretary Summers also stated that this is an unbudgeted item.

Administrator Mullis-Morgan stated that absolutely it was unbudgeted.

Chairman Walden stated that we needed to take this under advisement and study this and discuss it at the next regular meeting. I don't see us having a situation where we will have to have meeting before the next regularly scheduled meeting. Secondly, I'm uncomfortable with you (Attorney Clem) providing legal advice to these groups on issues before they come before the board. Because we are spending money before they come before the board. This commission has not asked you or authorized you to spend time drafting a petition and all that. I believe that issue should be brought to us before you do so. I think there are several issues we need to address before we have another recall. The city charter should be clear on what needs to be done. I do not think there is one issue with the charter, I think there are several, and I think they need to be resolved first.

Mr. Wysong stated we do want the opportunity to do the recall. The potential for the recall is great. At this point we don't care if it is the higher number or the lower number; we know we can get the higher number. We also understand about the races and I do not personally want to get in the middle of them.

Chairman Walden stated that if you want to recall and get the signatures and it meets the state law, we have no choice but to let you have a recall. We are trying to help you get successful recall. Our Election Commission employees did a wonderful and outstanding job; they worked overtime and took time away from their families on weekend's evenings to great expense to the county government.

Adjournment:

Secretary Summers made a motion to adjourn.

Commissioner Braly seconded

Next Meeting: Tuesday November 2, 2010 @ 7:30pm

APPROVED:

Jerry Summers Secretary

Michael S. Walden Chairman

JB Bennett Commissioner

James Anderson Commissioner

Ruth Braly Commissioner