

**HAMILTON COUNTY ELECTION COMMISSION
MINUTES OF MEETING
February 10, 2010**

Call to Order:

Upon notice duly given, Chairman Walden called to order a regularly scheduled meeting of the Hamilton County Election Commission at 8:15 a.m. on February 10, 2010 at the office of the Hamilton County Election Commission, 700 River Terminal Road, Chattanooga, Tennessee.

Prayer: Commissioner Bennett

Pledge of Allegiance: Commissioner Lewis

Present at Meeting:

Commissioners, Summers, Lewis, and Bennett were present at the meeting. Commissioner Anderson came in late. Attorney Chris Clem, and the staff of the Election Commission, as well as members of the media. Mr. Walden was not in attendance..

Approval of Minutes

Commissioner Bennett made a motion to approve the minutes
Commissioner Lewis seconded.

New Business

There was no new business.

Old Business

Secretary Sumers asked that attorney Clem bring everyone up to date on Chancellor Peoples' resignation. The last meeting we authorized you to draft a letter or to contact the governors office what might be the consequences if we didn't act by Feb. 8th. Can you tell us if he has acted by then or not?

Attorney Clem stated that Governor has not acted as far as issuing a writ of election but has acted as far as accepting Chancellor Peoples' resignation and directing the judicial nominating committee, which deals with the temporary appointment and has told them to get started.

Attorney Clem also stated that the judicial nominating committee has a deadline for the temporary appointment that is due next Wednesday. (February 16, 2010 at Noon.) They will be interviewing all the candidates on February 23, 2010 at the Reid House. As far as the election goes, it will not happen until the governor issues a writ of election because there are two different processes. The appointment process and then the election process. I did do exactly what the election commission asked me to do, I faxed a letter to his office and I spoke to three of his attorneys and finally ended up with Steve Elkins (his general council) and had a conference call with the state election commission, *Beth Henry Robertson*, Steve Elkins & I went over the code sections together. The temporary appointment process basically allows the judicial nominating committee to get started they have reason to believe an opening is going to happen. So they have gotten started. The governor received the resignation and accepted it, told the supreme court clerk to get started on the judicial nominating process.

Attorney Clem further stated that when you look at the election laws, it basically says the governor should issue a writ of election once the seat is vacated. The governors office thinks

they should not issue the writ until the chancellor actually vacates that office, which would be April 1, 2010. Steve Elkins told me they would probably issue the writ as soon as possible there after. As far as talking to Charlotte and Mark Goins (the State Election Coodintaor) there are several issues as to when the election can take place. The election for any judicial position has to take place in August of an even year. It can't be bumped until November. So, the governor needs to issue the writ of election really by early March if we are going to have a primary. The governors office has already indicated they are not going to do that until April 1, 2010. The early ballots are already going to be set in stone by the time he issues it, and early voting starts a week later. The military ballots will have already gone out by then.

Secretary Summers asked would there be any candidates on the primary ballot?

Attorney Clem stated that there will not because the ballots will have already been sent out to the military by the time the governor issues the writ of election. That is if what has been told to me happens. There will be no time for a primary in May.

Secretary Summers If the committee picks somebody, what will be there period of office ?

Attorney Clem stated that the judicial nominating committee will probably give the governor a panel of three. They are meeting on February 23rd and they will decide on those three that day.

I would say by February 25th or 28th the governor will have a panel of three. So he could easily make the temporary appointment in March or early April. That person will be a temporary appointment until the next election. That person will either be appointed until August 2010 or if the governor waits to long to issue the writ until some time in early June then we could have trouble having the election in August 2010. The way I read the code and the way the state election attorney reads the code the election would not be bumped to November 2010, it would be bumped until August 2012. I don't think that will happen.

If he does issue the writ in early April there will be a filing deadline of around May 20th for the August election. Both parties would be informed that if they wanted nominees they are going to have to have caucuses like we did for Sherriff.

Secretary Summers asked if he was correct in his thinking if the panel picks three names and submits them to the governor then he timely selects someone to sit as temporary judge and then the parties can have caucuses and they could either affirm or reject that person or are would they have to announce their candidacy again?

Attorney Clem stated that yes anyone who is appointed by the governor is going to have to qualify.

Commissioner Anderson asked would that person have to be certified?

Attorney Clem I would hope that both caucuses were smart enough not to nominate anyone who hadnt already qualified or had their petitions ready to be qualified.

Commissioner Anderson asked By qualified I mean don't they have to be certified by judicial body—(Couldn't make it out)???

Attorney Clem stated that there is just the regular 25 signatures and they need to be a licensed attorney in the state over the age of 30.

Commissioner Anderson asked didn't they have to have some kind of experience?

Attorney Clem stated that no they did not. The voters can have someone with one day's experience if that is what they choose. The constitution states that they have to be a licensed attorney, age 30 and live in this county and have the 25 signatures.

Legal Matters:

There were none at this time.

Secretary Summers asked if there was anything else that needed to be brought up.

Commissioner Anderson said he had three legal questions.

Can a city employee hold a position in state legislature

Attorney Clem stated that he would need to do a little research on it but that there are several state legislators who hold city positions. I don't know right off the top of my head any Chattanooga delegation is but I do know several city employees do. They are several fireman, etc.

Commissioner Anderson the hatch act doesn't apply?

Attorney Clem stated that he did not think that applies. I believe it is permissible for city employees to serve in the state legislature.

Commissioner Anderson asked that attorney Clem check that out for him so he can have a legal authority for it.

Commissioner Bennett made a motion to adjourn

Commissioner Lewis seconded.

The Meeting was adjourned.

Next Meeting: Wednesday March 10, 2010 @ 8:00 am

APPROVED:

Jerry Summers

Secretary

Michael S. Walden

Chairman

JB Bennett

Commissioner

Brandon Lewis

Commissioner

James Anderson

Commissioner