

**HAMILTON COUNTY ELECTION COMMISSION  
MINUTES OF MEETING  
August 23, 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 August 23, 2010 at the office of the Hamilton County Election Commission, 700 River Terminal Road, Chattanooga, Tennessee.

**Invocation:** Commissioner Bennett

**Pledge of Allegiance:** Chairman Walden

**Present at Meeting:**

Commissioners Walden, Summers, Bennett, and attorney Clem were present at the meeting, as well as the staff of the Election Commission, members of the media and public. Commissioner Anderson came in late.

**Approval of Minutes**

**Commissioner Bennett** made a motion to approve the minutes

**Commissioner Summers** seconded.

**New Buisness**

Certification of Results and Expenses and Audit for the August 5, 2010 election.

**Commissioner Bennett** made a motion to accept the results

**Secretary Summers** seconded

**Commissioner Bennett** made a motion to accept the expenses fro the August 5, 2010 election. **Secretary Summers** seconded.

**Commissioner Bennett** made a motion to accept the audit.

**Secretary Summers** seconded.

**Legal Matters**

**Recall Petitions**

**Attorney Clem** stated that there will be several issues regarding the recall petitions if they aqire all the needed signatures.

*The state code has a three step process.*

1. get required signatures
2. then on to ballot to vote yes or no to recall.
3. the election to see who will replace them

*The City Charter has a two step process.*

- 1 get required signatures
- 2 have an election to see who will replace them.

This has never really been contested, never been authorized by a court. Most cities or many of the cities in the state of Tennessee do have the two step process. I just wanted you to be aware. All these issues have nothing to do with the commission, Charlotte or the recall petitioners, it is just about the charter.

The seconded is the number required for the petition. The city charter has a lower number than the state code. We do have a specific number today that we have gone over with Charlotte and with Jerry. We know the numbers would be for Mayor-8,957

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Benson-1,032 and Rico- 588. All of these are half of the people who voted for mayor in the last election in their districts. Mayor Littlefield would be the entire city.

I've spoken to Mark Goins, Beth Henry Robertson and Charlotte about this. The third issue is the city charter has missed a significant issue. If any of the petitions are turned in with a sufficient number of signatures then there is no qualifying deadline. This kind of goes back to the first issue and the state code has a three step process and because there is a three step process you really don't have to worry about a qualifying deadline. The election is held to determine yes or no on the recall and if it is yes then the next election is a few months away and the qualifying deadline just comes under the regular qualifying deadlines. This is a much faster process when you have a two step process. Especially since the ballots need to be finalized that week of Sept. 5-11<sup>th</sup>. The city charter doesn't say when the deadline is gonna be if the recall petitions are sufficient. You have three options here. The first is to do nothing in which case the petitioners should file suite at that point to ask a judge to issue a qualifying deadline, if they get enough signatures. The qualifying deadline needs to be around Monday Sept 6<sup>th</sup> with a withdrawal deadline of Wednesday Sept. 8<sup>th</sup> just so we can get the ballots to the printer. The second option is we can set a qualifying deadline, there needs to be one and those would be the dates I would recommend. If we do that and they have enough signatures chances are one of the people recalled is gonna file a suite and they are going to correctly point out that we can't point to anything. **Secretary Summers** asked did we have the authority to establish a qualifying deadline? **Attorney Clem** stated that obviously we need one, but that he couldn't point to anything saying we did. He further stated that the third option is to file a declaratory judgement action ourselves. **Chairman Walden** asked if we filed it would the tax payers bear the burden of the cost. **Attorney Clem** stated that yes it would. **Attorney Clem** also stated that he thought there would be a lawsuit no matter what if there is a significant number of signatures. One of the key issues is going to be when is the qualifying deadline. **Attorney Clem** stated that even if we do not file, he and administrator Mullis-Morgan will have to go down and explain to the chancellor that we need something done and something done quickly. **Commissioner Anderson** asked what was the mechanism to get this before the court? **Attorney Clem** stated that someone would have to file suite first. .

**Commissioner Bennett** made a motion to set the qualifying deadline for Tuesday Sept 7, 2010 and the withdrawal deadline of Thursday September 9, 2010 if there are enough signatures for each of these races. **Secretary Summers** seconded.

### **Complaints**

**Administrator Mullis-Morgan** stated that we had three people to come in with complaints from Eastside. (Mr & Mrs. Grimes and Mr. Kunesh) They all said the same thing, they requested a democrat ballot and received a general ballot. I sent a staff member over there and we had it corrected.

City of Collegedale

**Administrator Mullis-Morgan** also stated that the City of Collegedale will be moving their elections to the November ballot by the year 2016. That is their time schedule and I wanted you to be aware of that.

### **Adjournment:**

**Commissioner Bennett** made a motion to adjourn. **Secretary Summers** seconded.

Next Meeting: Wednesday September 8, 2010 @ 8:00a.m.

**APPROVED:**

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Jerry Summers Secretary

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Michael S. Walden Chairman

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JB Bennett Commissioner

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James Anderson Commissioner