

MINUTES OF MEETING
Monday, December 16, 2013

Call to Order:

Upon notice duly given, Chairman Walden called to order a called meeting of the Hamilton County Election Commission at 8:00 a.m. on December 16, 2013 at the office of the Hamilton County Election Commission, 700 River Terminal Road, Chattanooga, Tennessee.

Invocation: Commissioner Braly

Pledge of Allegiance: Commissioner Crangle

Present at Meeting:

Commissioners Walden, Summers, Braly, Crangle, and Scott were present at the meeting, as well as Commission Attorney, members of the media, members of the public, and staff of the Election Commission.

Approval of Minutes:

Secretary Summers stated that he had made a motion in the last meeting and it doesn't show approved or voted down.

Chairman Walden stated that he remembers it being approved.

Secretary Summers made a motion that the minutes be amended to show that it was approved.

Commissioner Braly seconded.

Commissioner Braly stated that she thought there was a lot of information in the minutes that are just discussions and things that I think do not need to be a part of the minutes. She then stated like when Jerry said "Administrator Morgan had blisters on her fingers." Do we really need to put everything we say in the minutes?

Commissioners Scott and Summers stated that yes we do.

Chairman Walden stated that we also have the tape if there are any questions.

Commissioner Scott made a motion to approve the minutes with the amended change (that was also amended by a motion and approved).

Commissioner Braly seconded.

Chairman Walden asked what the total number of signatures turned in was.

Administrator Morgan stated it was 11,104.

Chairman Walden asked how many were needed?

Administrator Morgan stated that the number was 4500.

Chairman Walden asked was that the actual number?

Administrator Morgan stated the number was 4,469.

Commissioner Braly asked was that the number you stopped at?

Administrator Morgan stated no, we counted them all.

Chairman Walden stated that it was his understanding that the commission received 11,104 signatures and of those 7,755 met the requirement and the requirement was 4469?

Administrator Morgan stated yes that is correct.

Attorney Clem asked were all the signatures turned in within the time period?

Administrator Morgan stated yes Tuesday, December 3, 2013 by 4:00pm.

Attorney Clem stated that you accepted no more signatures after that day?

Administrator Morgan stated no.

Chairman Walden asked do we have a motion to accept the certification of signatures?

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Commissioner Crangle made the motion to accept the certification of signatures for the domestic partnership ordinance.

Secretary Summers seconded.

Secretary Summers stated that he had something before we move on to new business and this could be a combination of both old and new. He further stated that at the last meeting we were given this job bulletin that was passed and put on the Hamilton County website, but we never voted on it, and I have some legal concerns. First of all, I took time to do a little legal research. I respectfully submit that there has been a mistake somewhere and let's just leave it at that. I am not pointing fingers. I know we live in a society where most people have computers, but some still do not. This was listed for four days and that is entirely too short a time, there are also other matters that, and with no disrespect to anyone, it is a misrepresentation as to what's always been the philosophy of this commission. Like I said, it wasn't voted on by this commission. The first time I saw it I asked Mrs. Morgan had she ever seen it and she said no. In regards to the minimum requirements that have been established, our last administrator and this is no disrespect, I recognize many people who have been successful without a college education. This requirement to be certified within 6 months, it has a benefit from the state if you get certified, and there is an economic benefit to the county. I just think we get into a strong 1st Amendment issue.

Chairman Walden asked that you do realize this is an appointed position like it has been for 140 years, and it will be a Republican that is appointed?

Secretary Summers stated that it doesn't have to be.

Chairman Walden It's always been a Democrat for 140 yrs.

Secretary Summers stated that he was just trying to make a non partisan argument.

Chairman Walden stated that it is a partisan issue, the next Administrator of Elections will be a Republican.

Secretary Summers stated he had no problem with that

Chairman Walden stated that it wouldn't do you any good if you did.

Secretary Summer stated that if that is the way you want to put it.

Chairman Walden stated that for 140 years the democrats chose the administrator of elections and the republicans will choose going forward.

Secretary Summer stated that he understood that, but the republicans don't determine the constitutional issues of someone being deprived of submitting their name if they are republican because of that fact.

Chairman Walden stated that a democrat can submit their name.

Secretary Summers stated that was right and that we have some democrats in here. I really don't care. I want the best qualified person from these 39 people or, if it is put on the website for more than four days and on our website for more than four days, that we get the best person. The purpose of it is to be able to under the preamble of the election laws and I am paraphrasing here to make sure the people participate in the electoral process to bring somebody in here, say a Republican with what's going in, they are going to have to acquaint themselves with members of the staff, and they have the authority not we the election commission, but they have the authority, to make changes in employee's and they will have to be trained and Mrs. Morgan can be a help up until her termination, I mean resignation, excuse me, which is in February.

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Secretary Summers stated that she will be a significant help but what I am saying is the 1st amendment and the 14th amendment are designed to not have any kind of discrimination based on age, sex, religion or race. I'm saying to you that to avoid another lawsuit that the taxpayers would pay for and we would be direct parties to this one. These arguments that the city or county will pay stops short of saying the real payers of this litigation cost are the taxpayers of Hamilton County or city of Chattanooga. All I am saying very simply is this has not been voted on I have looked at the minutes.

Chairman Walden asked what had not been voted on?

Secretary Summers stated what happened is Mr. Walden indicated that he would get with Mr. Clem and refer it to County government and we have never brought it before this body to discuss it.

Attorney Clem stated that he thought where the miscommunication happened is y'all did vote to put the job process on the Hamilton county website ad then really didn't go into detail. Then after the vote, Hamilton county did require us to put some kind of summary on it, so Charlotte and I kind of came up with a summary and it said preferred, nothing required, but the county changed it to say required

Chairman Walden stated that we have no issue to even have to post the position, there is no requirement. They didn't post our job descriptions when we were voted on as commissioners. We are politically appointed.

Secretary Summers stated that we are appointed by the Secretary of State.

Chairman Walden stated that he understands but understand this person is an at-will employee that will be selected, retained, or terminated based upon the three votes of this commission, he or she will not be protected by Hamilton County. It is 100% a politically appointed position.

Secretary Summers stated that yes it is by five commissioners and yes you have the majority and I don't have any problem, you can pick a Republican I don't care and I agree with you the Democrats picked it.

Chairman Walden stated that yes for 140 years.

Secretary Summers stated that it has taken ya'll that long to get the majority congratulations

Attorney Clem stated or condolences as the case may be.

Chairman Walden stated and we are not going to give up that much land in four years.

Secretary Summers stated that I believe it would be a mute question for you and I and everyone else here if it takes 140 years to get it back, but that's not the issue here Mr. chairman. The question is has any one person been deterred from submitting their name based on this?

Chairman Walden stated that I'm not a constitutional lawyer, but they don't have a constitutional right to apply for a job.

Commissioner Braly asked that are you saying because they did not have a bachelor's degree or five years experience supervising?

Chairman Walden stated that we can set whatever requirements we want.

Commissioner Braly stated that there were people in here that applied that do not have a college degree.

Secretary Summers stated that he understood that but there could be someone who saw it and thought I'd like to apply but I don't have a college degree. He further stated that what went out was a mis-representation.

Chairman Walden stated that I think we had a conversation in the minutes that it wasn't required, but it was preferred.

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Commissioner Braly asked why didn't you bring this up before we did all this?

Secretary Summers stated that he never saw this before the last meeting. Mrs. Mullis-Morgan said she never saw it before last meeting.

Secretary Summers stated that this is what the public has been informed on.

Commissioner Braly asked was he wanting to re-advertise it?

Secretary Summers stated that he wants the criteria that was preferred which Mr. Clem has candidly stated that's not what we wanted. I don't care if they have a bachelor's degree or not. Each of these people whose names I read off have served adequately there hasn't been any controversy like in other counties all over the state. I am saying simply that I move we amend this. Four days is not a reasonable amount of time. I just want there to be a fair process. Nothing misunderstood.

Chairman Walden asked why do you think it was only up there for four days?

Secretary Summers stated that it says so on the first page it has opening date and closing date. This is not a partisan issue, I'm trying to make it a fairness issue and avoid any potential litigation.

Chairman Walden stated that you know you can't protect yourself from someone spending a little filing fee and filing a lawsuit. I understand what you are saying.

Commissioner Crangle stated that it sounds like we need to talk to Hamilton County.

Commissioner Walden said we are not going to take any action before the next meeting anyways, so let's take a look at it and Charlotte you send an email, if you would and find out how long they normally post a job.

Administrator Mullis-Morgan stated five days.

Chairman Walden so it is just five days?

Administrator Mullis-Morgan stated yes.

Chairman Walden stated that it becomes a mute point for everybody that's ever applied for a job in Hamilton County.

Secretary Summers I don't think that's adequate under the law.

He then made a motion to re-advertise the job for a period of 15 days and remove the requirement of the bachelor's degree and that they attempt to take the certified administrators test within a year and a half.

Commissioner Scott seconded it.

Motion failed

Commissioner Scott stated that he talked to administrator Morgan and it wasn't added to the minutes.

Chairman Walden stated that the chairman sets the agenda so if you want something on the agenda contact him.

Commissioner Scott stated he had been invited to the national election summit in Washington D.C. on January 30th where they will be discussing the process for military ballots and the election process and I wanted to see if I could get an airline ticket and my hotel.

Commissioner Braly asked has this been done before?

Administrator Morgan stated that yes Carolyn Jackson went once.

Secretary Summer stated that if it has been done before then I make a motion to send Mr. Scott to Washington.

Commissioner Braly seconded.

All in favor, motion passed.

Chairman Walden asked if there were any other issues.

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Attorney Clem stated that he had two things. The first being the lawsuit with Elder Mtn is still in the court of appeals. I do think it will come up again sometime in 2014. Having said that, this wraps up all the legal matters for the year.

Commissioner Crangle asked what is the part of it coming up again in 2014?

Attorney Clem stated that they were questioning who should vote and who shouldn't vote in the deannexation of Elder Mtn. They have about 40 homes on the brow, half vote in Hamilton County and the other half in Marion County. City Attorney Phil Noblitt will be at the court of appeals hearing arguing the case. I wouldn't say it is completely over but from our point of view its mostly done, which goes into my next issue which is I have served here as the attorney for about 6 years which is about the same time as I was in the legislature. I have really enjoyed it but I stopped attending Pachyderm meetings and not contributing to campaigns. I have a lot of elections this year and a lot of good friends running. I'd like to get involved in politics again and I'm giving you my notice that I am not intending on staying on as the Election Commission attorney. I think I could have this ended by the end of this month since there is nothing pending. I'm willing to stay longer, but I don't see a need to do so unless I am overlooking something. I'd just like to end being your attorney by the end of this month. So having said that, I'd like to formally tender my resignation effective December 31, 2013. I am willing to modify if needed but, as your attorney, I don't see a reason as nothing is pending.

Secretary Summers stated that we have differed over different things and with all do respect I don't think this resignation is voluntary. I think the last meeting and the paper will reflect it. I told you in an email that you were under pressure to resign, I would tell you very candidly, I don't think that's a valid reason to terminate you. The second thing is when I was appointed the attorney, I was in the now minority then the majority, and we had three attorneys apply for the job. I'd like to think that it would be proper to have someone with the caliber of Mr. Clem. I move that we accept applications for the attorney of the Election Commission.

Commissioner Scott seconded.

Motion passed.

Chairman Walden we didn't take applications with Chris and I think we made a good selection, Jerry you actually may have been the attorney before I was on here.

Secretary Summers stated that yes he was.

Chairman Walden stated that Jerry Summer always did what was right without exception. Sometimes I agreed and sometimes I didn't. Chris served honorably and commendably, we'll hate to see you go, he'll be successful in future endeavors and we wish him well.

Commissioner Scott made a motion to accept attorney Clem's resignation.

Commissioner Braly seconded.

Motion passed.

Secretary Summers asked when we were going to vote on these folks?

Chairman Walden stated that let's get through the holidays and what is our normal meeting date in Jan?

Administrator Morgan stated that it is Jan 8, 2014.

Secretary Summers stated that he may have a conflict that day, but that he didn't bring his calendar for 2014 in.

Chairman Walden stated that if you will call back and let us know we can amend it.

Administrator Morgan stated that Dominion should be shipping the machines at the end of the month. They've asked to come on Jan 8, 2014 to train the staff and we are thinking about having an open house on the 16th for the public.

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Chairman Walden stated that he thought that was fine. He further stated that with there being a delay in this process of the new administrator and Charlotte has asked to stay on. What some of you do not know is that Charlotte will be in a part-time position to help with everything.

Commissioner Scott stated that doesn't the new administrator have a say in who comes on as hires? I mean at first it was voluntary and now it is part-time position.

Chairman Walden stated that we can't have anyone volunteering and not getting paid here.

Commissioner Scott stated that he understood that but what he was saying is if we are not going to have someone in place before her designated time, then to say we are going to hire her part time, the new administrator would have input on that.

Chairman Walden stated that the transition with Charlotte and Scott will help train the next administrator and bring them on after that point. Charlotte's desire is to work part time, true it is the administrators choice to approve that but I can't imagine not wanting 30 years experience. Nashville picks their administrator and deputy and we appoint our administrator and they appoint their staff. We serve at the leisure of the legislature and the Administrators serve at the leisure of the five of us. All the men and women who work out there with the exception of the administrator are protected regardless of which party is in the majority.

Commissioner Scott stated that he was in discussion with Charlotte on the public forum and so many people are asking about the new machines I thought it would look good to have a couple evenings set up so they can see the machines and a slide presentation to keep anything from being said about keeping things hid.

Commissioner Braly asked what the date was for the retirement?

Administrator Morgan stated that it was Feb 4, 2014.

Chairman Walden stated that since she put it in why doesn't she take it out a month.

Administrator Morgan stated that she would do her best.

Adjournment:

Commissioner Braly made a motion to adjourn.

Commissioner Summers seconded.

The meeting was adjourned.

The Next Meeting is scheduled for Wednesday January 8, 2014 @ 8:00 am

APPROVED:

Jerry Summers Secretary

Michael S. Walden Chairman

Ruth Braly Commissioner

Tommy Crangle Commissioner

Kelvin Scott Commissioner