

HAMILTON COUNTY ELECTION COMMISSION  
MINUTES OF MEETING  
April 9, 2013

Call to Order:

Upon notice duly given, Chairman Walden called to order a regularly scheduled meeting of the Hamilton County Election Commission at 6:30 pm on April 9, 2013 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, Anderson, Braly, Crangle, Summers and Attorney Clem were present at the meeting, as well as staff of the Election Commission, member(s) of the auditing firm.

Approval of Minutes:

**Chairman Walden** asked that the minutes be emailed receipt requested so that everyone has time to review them and make changes before we get to the meeting.

Secretary Summers asked was there some kind of concern:

Chairman Walden stated that the last time we had some issues with the minutes, who voted for what and some things were left off. He further stated that he suggests that before it is sent one type it and one proof read it

**Commissioner Braly** made a motion to accept the minutes

**Secretary Summers** seconded.

Motion passed unanimously. Opposed by no one.

New Business:

**Chairman Walden** stated that he was going to go out of order for a minute and we will go into recess to count the ballots and reconvene at the next meeting which will be Monday April 15, 2013 @ 9:00 am. Is that okay with everyone? Everyone agreed.

Legal:

**Attorney Clem** stated that Frank Brown sent a handwritten fax saying he was going to dismiss the case and was going to give a more detailed decision today. I left my office at four pm and I still had not received it. It is apparently on the Chattanooga. I haven't read it.

In the fax he did say that he was dismissing it for two reasons one was that there is a five day statute of limitations (five days from the day we certify the elections to file) He filed on the 6<sup>th</sup> day. He went on (and knowing Frank Brown) he wants the people to know he wasn't throwing it out on a technicality that you don't count write in votes period in Tennessee is his view.

**Chairman Walden** stated that Frank Brown said that on the Chattanooga today that the Election Commission acted properly & threw out the two votes because as a rule you don't count write in votes.

**Attorney Clem** stated that disappointingly the Elder Mtn case is not quite over. You would think that Susan Rich since she won the election and there will not be any De-Annexation that she would dismiss her appeal, but she and Konvalinka have not. The City of Chattanooga and Rich are still quivering over Frank Browns ruling. I don't plan on doing anything about it. I will probably file something to the court of appeals saying please don't make me come for any oral arguments cause I really don't care. But, just so you know that the case has not

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completely gone away yet. Both the Peter Murphy and the Susan Rich case are directly related to the City election so any legal bills should be lumped in like we have been doing and sent to the City of Chattanooga

**Chairman Walden** stated that another matter that is not on here, but he would just like to bring it up for discussion is the City Charter. We continually have this issue with the City Charter and how the complex within the City Charter and the State law about their elections when they are held, how they are held and things like that. On the ballot this last time there were corrections in an attempt to correct the City Charter and right off the bat they talk about primaries in the city elections and there are no primaries in city elections. They pay their city attorney to fix the charter and their fix has problems. We are getting sucked in, and it doesn't cost us any money because we don't have any money but it costs the taxpayers money specifically the city taxpayers. Because when we have those issues the city has to reimburse us the money we spend trying to sort out their mess. The issue I wanted to talk about was maybe Chris and Jerry or Me Chris & Jerry or anybody that wants to be involved set up a mtg with the new administration once it has time to catch its breath and work with them and ask them to be proactive and hire an attorney or get the firm they are already paying to really look at the charter and fix this, because we continually get a black eye. We are only playing the hand we are dealt, it is not our fault. We can only interpret the conflicts. I would think in the long run it would be less expensive for the city and be more positive to the elected officials and everyone involved if we had a good election charter law that complied and just have someone as a project do that so that we can fix it once and for all instead of death by a 1000 paper cuts with every election there is a conflict, a protest or a lawsuit. We can't decide if it is city charter or state law or if it is city & state law.

**Attorney Clem** stated that we have been guessing well. Even on the recall the court of appeals went with the lower number which is what Jerry put in his memo from several years ago. Obviously the chancellor ruled with us today.

**Chairman Walden** asked if we could go to them and ask them to correct the charter

**Commissioner Braly** stated that it should be clear.

**Commissioner Anderson** stated that he thought what you are asking for is a total rewrite as opposed to the piece mill fixes.

**Secretary Summers** stated that city charter should follow state law and that's what the problem is.

**Chairman Walden** stated that the same guys who wrote the city charter are the ones who wrote most of the municipalities around here and guess what we are not having any problems with them.

**Attorney Clem** stated that we can make a request, but it is tinkering in what is their responsibility. We can't force them to do anything.

**Commissioner Anderson** stated it is up to the mayor and he is an attorney so he may be up for that.

**Chairman Walden** stated that maybe we can get 15 min on his calendar and say here is what we are thinking would you please consider it. The last thing the public needs to be thinking is that the elected officials are writing the things keeping them in office.

**Commissioner Crangle** stated that he thought it should be changed and the perception of the citizens of the City of Chattanooga and Hamilton County and other places is that it is written that way for a purpose.

**Chairman Walden** stated that more times than not we have to say well it could be this or it could be that."

**Commissioner Braly** stated that there was a lot of new council this time.

**Attorney Clem** stated that pretty much everyone who had opposition pretty much lost.

Recess:

Commissioner Braly made a motion to recess  
Secretary Summers seconded.  
Motioned carried.

The next meeting is scheduled for Monday April 15, 2013 @ 9:00am

APPROVED:

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Jerry Summers

Secretary

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Michael S. Walden

Chairman

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James Anderson

Commissioner

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Ruth Braly

Commissioner

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Tommy Crangle

Commissioner