

MINUTES OF MEETING
Monday, July 7, 2014

Call to order:

Upon notice duly given, Chairman Walden called to order an emergency meeting of the Hamilton County Election Commission at 8 a.m. on July 7, 2014 at the Hamilton County Courthouse, Room 120, 625 Georgia Avenue, Chattanooga, TN 37402, for the purpose of settlement discussions of the Cooper/Smith v Election Commission lawsuit.

Present at Meeting:

Commissioners Walden, Summers, Braly and Clem were present at the meeting, as well as County Attorney Rheubin Taylor, Chattanooga City Attorneys, staff of the Election Commission, and members of the public and media. An attempt was made to contact Commissioner Scott, who was out of town, by phone; however, it was unsuccessful.

Legal matters—Ballot language:

Secretary Summers made a motion to recess the meeting for the purpose of hearing Judge W. Neil Thomas III's decision on the case of Cooper/Smith v Election Commission.

Commissioner Braly seconded the motion.

All present were in favor.

During the recess, those present at the Election Commission meeting went to Judge Thomas' courtroom to hear his decision.

Judge Thomas began his discussion of the case by saying his decision is based upon language to be contained on the ballot for August 7 and in no way expresses an opinion on the referendum itself. It is a procedural decision. He referenced T.C.A. §2-5-208 and §2-5-151 and said this case is surrounded by what "the question" is; however, nowhere in the statute is "the question" defined. He then referenced a Supreme Court case, *Rodgers v White*, from 1975. *Rodgers v White* is dictum, he said, but it is pretty strong dictum. He continued his explanation by citing the above laws, saying T.C.A. §2-5-151(e)(1) says that upon filing, each completed petition shall contain the following: "the full text of the question attached to the petition." And that T.C.A. §2-5-208(f)(2) provides in part "if the full statement of a question is more than 300 words in length, the question shall be preceded by a brief summary of the proposal written in a clear and coherent manner using words with common everyday meanings." In *Rodgers v White*, the Supreme Court makes a distinction between the question—in this case the question on the petition—and the proposal—in this case the ordinance. If you are presenting a petition to the voters, whatever they sign off on is what the voters later should vote on and that is exactly what has happened in this case. He ordered the motion for temporary injunction is denied, and to go forward with the language on the ballot as submitted by the Election Commission.

The members of the Election Commission returned to Room 120 in the Courthouse. A second attempt was made to contact Commissioner Scott, but he could not be reached.

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Chairman Walden called the meeting back to order.

Secretary Summers said the court has indicated that the language we adopted appears to be correct pending any appellate review.

Secretary Summers made a motion to reaffirm the language we previously approved which is contained on the last page of the letter from Mark Goins, Coordinator of Elections of the State of Tennessee.

Commissioner Braly seconded the motion.

All present were in favor.

Adjournment:

Commissioner Clem made a motion to adjourn.

Secretary Summers seconded.

All present were in favor.

APPROVED:

Jerry Summers

Secretary

Michael S. Walden

Chairman

Ruth Braly

Commissioner

Chris Clem

Commissioner

Kelvin Scott

Commissioner