

SHELBY COUNTY ELECTION COMMISSION
REGULAR MEETING MINUTES

July 23, 2015

APPROVED

The Regular Meeting of the Shelby County Election Commission was held on July 23, 2015 at 4:00 PM at the Election Operations Center, 980 Nixon Drive. All Commissioners were present except (Commissioner Meyers arrived late). Commissioner Nollner chaired the meeting until Chairman Meyers arrived.

Meeting was called to order by Commissioner Nollner at 4:00 p.m.

APPROVAL OF JULY 1, 2015 COMMISSION MEETING MINUTES

Commissioner Stamson moved to approve the July 1, 2015 minutes with 2 corrections and Commissioner Tate seconded. July 1, 2015 Meeting Minutes were unanimously approved.

PRESENTATION BY TOM NEEDHAM, DIRECTOR OF PUBLIC WORKS

Mr. Needham reported that a plan was underway to improve the use of the Election Commission Operations Center. They are talking with an architect to look at the best use of the facility and provide opportunities to improve the facilities for both the Election Commission and Archives. The plan could be an addition to the existing building, or a completely new facility, nothing is set.

There was much discussion with the consensus being that the Commissioners were insulted that this issue had reached the CIP level with the County and no one had spoken with anyone at the Election Commission. They were adamant that people not directly connected with conducting elections could not have adequate knowledge of what the Election Commission Operations facility needs involved. Commissioner Nollner and Commissioner Lester were especially vehement in their opinions that the current operations facility was functioning just fine.

Mr. Needham recognizes the importance of elections and recognizes the fire we come under when they are not done right. If they can provide a more useful space he doesn't understand why that wouldn't be acceptable.

Commissioner Stamson requested that the Election Commission have input when meeting with the architect and during the planning process.

Mr. Needham said that he had already committed to Chairman Meyers and Mr. Holden that the Election Commission would be included in on-going plans. They would meet with Mr. Holden and determine the needs and any improvements that could be made to the space. Commissioner Stamson was fine with that plan.

Commissioner Nollner asked Mr. Needham if he had ever been at the Election Commission on an Election Day. He said he had not. She then asked that he come and witness the next Election Day, October 8, 2015.

Commissioner Lester clarified that they would not move forward until the Election Commission was on board. Mr. Needham explained that they were receiving architect qualifications next week and once an architect was selected, they would confer with Mr. Holden to determine specific needs. He clarified that they would not proceed with a contract until Mr. Holden had approved all the plans. Commissioner

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Lester requested that Mr. Holden not approve anything without the knowledge of the Commissioners, to which Mr. Holden concurred.

ATTORNEY'S REORT

Mr. Ryder reported 3 pieces of election business. The Joe Brown, et al lawsuit is still pending from the August 2014 Election. The motion to dismiss was argued before the Judge on Monday, July 20, 2015. The judge has taken it under advisement and there should be an opinion before the next Regular Commission meeting.

We were sued by Joe Cooper seeking a delay in the qualifying deadline to allow him additional time to get his citizenship rights restored. That petition was dismissed by the Chancellor.

We have been joined in the Southwind Annexation by the City of Memphis lawsuit. The time for the Election Commission to answer has not come.

OPERATIONS AND TECHNOLOGY COMMITTEE REPORT

Commissioner Nollner reported that operations were moving forward to conduct the upcoming elections in Lakeland/Arlington and the Memphis General Election. To date, 120 temporary employees have been hired to work the upcoming elections.

VCS AND HR COMMITTEE REPORT

Commissioner Stamson submits Mr. Dow's report as his report.

ADMINISTRATOR'S REPORT

As requested, the possibility of instant run-off voting has been researched, as passed by Memphis voters in 2013. At present, Shelby County does not have certified equipment to conduct instant run-off elections.

Updated website – a new page has been created specifically for Memphis election information: calendars, maps (including maps for South Cordova and Southwind annexations) and a link to the precinct consolidation pages. In the next few days, a link will be added to cross-reference old precincts to new precincts by district.

The state has completed geo-coding of the database containing 547,000 registered voters and it is correct to 0.12%. The few anomalies are outliers and are being updated currently in ESM.

The state and regional GIS Center will geo-code again prior to the elections.

The County 1.7% cost of living wage increase for employees was received in the first July paycheck by all SCEC employees.

[NOTE: Upon further review it was later determined that all employees had received the raise except the AOE and the new voting machine tech, LaFerre Ryan. Mr. Ryan has not completed his 6 month probationary period and will not receive the increase until after the probationary period and an acceptable performance review.]

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Commissioner Lester requested clarification regarding the maps on the website asking if the maps are the current district information or what the City Council is proposing. Mr. Holden explained that the maps are the current maps and that we have received no communication from the City Council regarding any changes in district boundaries.

REQUEST TO SPEAK

Commissioner Nollner acknowledged Mr. James M. Clingan and gave him three (3) minutes to speak.

Mr. Clingan stated the he went to the Election Commission on July 16, 2015 at 2 p.m. to submit his petition to run for Mayor and was told he was late and that the qualifying deadline was July 16, 2015 at noon. He stated that the candidate packet he received listed that the qualifying deadline was noon on July 17, 2015. He stated that he was not informed of the change. He acknowledged that he was told that a certified letter and an email had been sent to notify him of the correct qualifying deadline but that he had received neither of the notices. He requested that his petition for Mayor of Memphis be accepted.

Mr. Holden explained that there was a typo in the original document. That typo was corrected and certified letters and emails were sent to all candidates to communicate the qualifying deadline. Mr. Holden presented a copy of a reply email from Mr. Clingan dated June 10, 2015 acknowledging receipt of the email. Mr. Holden also had a copy of the certified letter sent to the address provided on the candidate's petition and the letter was returned to the Election Commission.

Mr. Ryder stated it appears that Mr. Clingan did not file his petition in accordance with the qualifying deadline and that he was notified of the correction to the qualifying deadline and had received the email by his response. Also, the registered letter that was returned was sent to the address provided by Mr. Clingan on the petition.

Mr. Ryder clarified that the correct order for the Election Commissioners would be to certify the list of candidate names as provided and then amend that list to include or remove any names as decided by the Commissioners.

CERTIFICATION OF CANDIDATES FOR MEMPHIS OCTOBER 8, 2015

Commissioner Nollner moved to Certify the Candidates for the Memphis Municipal Election on October 8, 2015 as submitted. Commissioner Stamson seconded.

Commissioner Tate stated he had been contacted by a citizen and asked for clarification on candidate's eligibility if there were outstanding debts. Attorney Ryder explained there was a provision in the Memphis charter that stated anyone in arrears with their taxes is ineligible to run for office. He then asked for Assistant City Attorney Freeman Foster to comment further or answer any questions regarding the City Charter. He agreed that it was the opinion of the City Attorney's office that the charter states anyone in arrears is ineligible to hold office, however, they believe it does not prohibit them being a candidate but that it may prevent them from being sworn in if elected. Commissioner Tate asked what their provision was should someone win the election and then not be eligible to take office. Mr. Foster stated he was not prepared to answer. The City has requested a formal opinion from a former City

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Attorney that had done previous research into this matter. Commissioner Tate stated that the Commission was charged with making decisions based on the facts in front of them. Chairman Meyers reiterated that it was the City's position that a candidate in arrears was not prohibited from being on the ballot and Mr. Foster confirmed that was correct at this time.

Commissioner Tate was also contacted by a citizen with a concern regarding Thomas Long. Thomas Long, Sr. is the current City Court Clerk and his son, Thomas Long, II, is actually running for City Court Clerk. Currently, Mr. Long, II is only listed on the list of candidates as Thomas Long. The concern is voters might be confused, thinking they are voting for Thomas Long, Sr. and the candidate is actually Thomas Long, II.

Mr. Ryder referenced the following in his response:

TCA 2-5-204. Placing of names on ballots -- Withdrawal or disqualification of candidate -- Death of candidate.

(c) If no less than four (4) members of the county election commission vote in the affirmative that a candidate's name on the ballot would be confusing or misleading, the county election commission may require further identifying information or may omit any confusing or misleading portion of the name. In an election where the candidate's name will appear on the ballot in more than one (1) county, this authority shall rest with the state election commission.

It would require a motion, a second and an Aye vote from 4 of 5 Commissioners.

Commissioner Nollner moved to amend the motion to Certify the Candidates for the Memphis Municipal Election on October 8, 2015 to list Thomas Long as Thomas Long, II. Commissioner Lester seconded. Commissioner Stamson – Aye, Commissioner Nollner – Aye, Commissioner Lester – Aye, Commissioner Tate – Aye and Chairman Meyers – Aye. The motion to amend the motion to Certify the Candidates for the Memphis Municipal Election on October 8, 2015 to list Thomas Long as Thomas Long, II passed unanimously.

Chairman Meyers acknowledged Mr. Joe Cooper.

Mr. Cooper outlined that he was sent a communique from the state instructing him to suspend his campaign until his citizenship rights were restored. He stated he immediately filed the petition to have his rights restored, but felt the state took on overlong time responding. He then filed a motion in Chancery Court to extend the qualifying deadline. As he had not filed a petition, the Chancellor dismissed the case and instructed Mr. Cooper to file his petition. Mr. Cooper stated he then did not have time to acquire the 25 valid signatures needed so filed his petition with only 2 signatures.

Mr. Cooper requested the Commissioners amend the motion to include him on the Memphis Municipal Ballot as a candidate for Mayor in the October 8, 2016 Election.

Commissioner Lester asked for clarification on whether he does or does not currently have his citizenship rights restored. He does not, but believes he will on July 27 or 28, 2015.

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Chairman Meyers clarified that to accede to Mr. Cooper's request we would need another amendment and Mr. Ryder confirmed.

Commissioner Nollner asked Mr. Cooper when he lost his citizenship rights and he responded in 2007.

Commissioner Lester questioned whether the Election Commission could make a motion on something directly in conflict with Tennessee State law.

Mr. Ryder confirmed that the Election Commission does not have the power to change the qualifying deadline and at the qualifying deadline Mr. Cooper did not have his rights restored. This Commission does not have the right to extend the qualifying deadline, that would need to be done in Chancery Court and it could not apply to just one individual, but to all individuals. It is Mr. Ryder's opinion that Mr. Cooper did not meet the qualifying deadline and therefore does not qualify as a candidate for the October 8, 2015 Memphis Municipal Election.

Commissioner Tate confirmed with Mr. Cooper his understanding that the Election Commission does not have the authority to grant his request. Mr. Cooper did so acknowledge his understanding.

Mr. Clingan asked if his request to be included on the ballot was to be granted. Chairman Meyers explained that it would require a motion to amend the current motion, and as there was no such motion made, the Commission would not be including his name on the ballot for the Memphis Municipal Election to be held on October 8, 2015.

Chairman Meyers called for a vote on the original motion to Certify the Candidates for the Memphis Municipal Election on October 8, 2015 with the amendment to list Thomas Long as Thomas Long, II and the correct spelling of Mr. Charlie Burch. The motion passed unanimously.

RFQ UPDATE

Mr. Young reported that discovery meetings are being scheduled with appropriate people to develop critical success goals.

NEW/OLD BUSINESS

Mr. Ryder presented old business in the form of 2 petitions submitted by Mr. Joshua Fox and Mr. Joseph Fox. The original petitions were presented to the Election Commission in March, 2015 and pursuant to TCA 2-151, they were reviewed by the Election Commission and returned to the petitioners with suggested corrections. The petitioners reviewed the changes with Mr. Ryder and the changes have been made. Mr. Ryder reported that the petitions are now ready to be approved. The referendums would not appear on a ballot until the August 2016 County General Election. But to appear on the ballot as a referendum, they would need signatures from 15% of registered voters. Earlier Mr. Holden indicated the total number of registered voters in Shelby County is approximately 547,000. They will need approx. 80,000 valid signatures per petition. Mr. Ryder's recommendation is to approve the petitions. Chairman Meyers requested Mr. Joseph Fox provide a brief overview of the petitions. Mr. Fox explained in 2008, the County Commission amended the County Charter taking constitutional officers and making them charter officers, affecting the following offices: Sheriff, Tax Assessor, Register, County Clerk and

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Trustee. Specifically, those offices lost salary petition ability and guaranteed budgets under state law. This took away judicial oversight from what they consider to be part of the executive branch of county government. The second amendment would make the term limits for these offices 3 years instead of 2 years.

Commissioner Stamson moved to approve the two (2) County Charter petitions to be submitted.

Commissioner Nollner seconded.

Brief discussion followed. Commissioner Lester clarified that this approval is just for the petitioners to gather signatures. Motion to approve the two (2) County Charter petitions passed unanimously.

ANNOUNCEMENTS

Mr. Dow asked if the voter registration review could be rescheduled for 2:30 p.m. before the next Regular Meeting.

Chairman Meyers recognized Mr. Del Gill who stated he is the Co-Chair of Democratic Election Committee. He commended the SCEC on recent notifications but commented that the timing of City Council redistricting discussions reflected poorly on the Election Commission. Mr. Holden responded that the Election Commission has nothing to do with establishing City Council districts and that our recent precinct consolidations did not impact City Council districts at all.

Commissioner Lester commended the staff of getting the precinct consolidation materials out. She also questioned the comment on the Voter Information Flyer regarding the counting of provisional ballots on Election Day and the wording regarding in-person registration. Corrections will be made to the flyer.

Commissioner Tate recognized County Commissioner Eddie Jones and thanked him for his attendance. Commissioner Jones addressed the new facility issue and has assured the Election Commission he would continue to monitor the situation.

After discussion, the next Commission meetings were moved from Friday, August 14, 2015 to Thursday, August 13, 2015. Commissioner Lester requests that we establish a set meeting time and date and Chairman Meyers requested that be an agenda item for the next meeting.

Commissioner Voter Registration Review:

(only Commissioners are required for this meeting, however anyone is welcome)

Thursday, August 13, 2015 at 2:30 p.m.

Next Operations and Technology Committee Meeting:

Thursday, August 13, 2015 at 3:00 p.m.

Next VCS and HR Committee Meeting:

Thursday, August 13, 2015 at 3:30 p.m.

Next Regular Commission Meeting:

Thursday, August 13, 2015 at 4:00 p.m.

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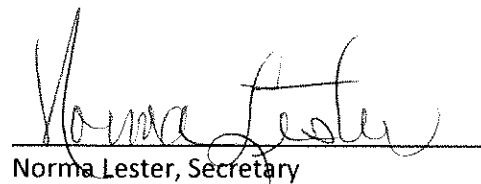
ADJOURNMENT

Meeting was adjourned

Others in attendance:

Rich Holden, Administrator
Joe Young, Deputy Administrator
Dan Dow, VCS Manager
Darral Brown, Operations Manager
John Ryder, Attorney
Pablo Varela, Attorney
Freeman Foster, City Attorney
Deborah Upchurch, staff
Barbara Williams
James M. Clingan
Constance Clingan
Mickey Klenz
Joseph Fox
Joshua Fox
Kyle Veasey
Eddie Jones, County Commissioner
Kontji Anthony
Robert Springfield
Joe Cooper
Del Gill


Robert Meyers, Chairman


Norma Lester, Secretary