

**MADISON COUNTY BOARD OF ELECTIONS
REGULAR SESSION
Board of Elections Conference Room
Wednesday, March 12, 2014
4:30 P.M.**

MINUTES

CALL TO ORDER

Chairman Andy Gibson called the meeting of the Madison County Board of Elections to order at 4:30 P.M. at the Madison County Administrative Building, Room 26. Board and staff members in attendance were Andy Gibson, Chairman; Dyatt Smathers, Secretary; Jerry Wallin, Member; and Kathy Ray, Director.

AGENDA

Moved, Seconded (AG, DS) and Carried (3,0) to move to the front of the agenda four (4) items under Old Business: Candidacy Challenge, Change of Hearing Date and Location, G.S. 163-39 Limitation on Political Committee Activities, and G.S. 143B-16.A.

Moved, Seconded (AG, DS) and Carried (3,0) to add a closed personnel session to the end of the agenda in regards to the temporary office personnel position.

The Director requested that the item referencing G.S. 143B-16.A under Old Business be revised to read G.S. 143B-16.A rather than the stated G.S. 1438-16A.

Moved, Seconded (AG, DS) and Carried (3,0) to accept the agenda as discussed and with the correction noted.

OLD BUSINESS

The Chairman deferred to the County Attorney to lead the discussion regarding the Candidacy Challenge of C. John Ledford, Candidate for Sheriff of Madison County by Challengers Peter Orthmann, Cindie Harman, and Timothy Malone.

County Attorney Donny Laws opened the discussion with several issues that need to be addressed as the Board of Elections moves forward in preparation for the hearing.

Mr. Laws referred to a copy of a letter he had received early in the proceedings from the counsel for the petitioners. He indicated that the letter was addressed to State Board of Elections General Counsel Don Wright. The letter raised issues of the potential abilities of Board of Elections Member Jerry Wallin and Chairman Andy Gibson to be fair and impartial quasi-judges or hearing officers in the candidate challenge. The letter dated March 10, 2014 was shared with the Director who then sent copies to each Board Member. Board Members confirmed they had received and reviewed a copy of the letter.

Mr. Laws read the paragraphs challenging the two aforementioned Board Members' ability to be impartial and fair in making a decision regarding the candidacy challenge.

Counsel for the Petitioners, Mr. David Wijewickrama, was present for the meeting. Discussion ensued about the appropriate time for him to raise his objection and have it heard at a later date by the North Carolina State Board of Elections.

Upon questioning by the County Attorney Donny Laws, all Board members answered in the affirmative that they could sit and be fair and impartial arbiters. Mr. Laws informed the Board that based upon their statements, the proceedings would be moved along to the hearing.

The Notice of Hearing was issued Friday, March 7, 2014 and included the date, time, and location for the hearing. The Board acknowledged that the hearing dates conflict with State Board of Elections training, and that they had received a communication from State General Counsel Don Wright requesting that the Board reschedule the hearing. Mr. Wijewickrama informed the Board that he had to be in Washington, D.C. on March 24, 25, and 26 on an issue that involves the State Department. He requested that the Board consider alternate dates of March 21, March 27, or March 28.

There was discussion that the hearing date had already been set and noticed in the local newspaper, Madison County Courtroom was available on March 24 and 25, and that there was a short turnaround for having a written decision rendered by April 3rd.

Moved (DS) to set the hearing date for Friday, March 28, 2014 at the AB Tech building. Motion died for lack of second.

Moved (DS) to set the hearing date for March 27, 2014. Motion died for lack of second.

Moved (AG, JW) to continue with the original notice of hearing and conduct the court hearing on the 24th and 25th. Mr. Laws indicated no motion was necessary unless there was an action to change the hearing date.

All parties agreed that they would be present for the hearing to commence on March 24th.

Mr. Laws turned the discussion to the issue of subpoenas. Mr. Wijewickrama indicated that one of the subpoenas requesting documents needed to be issued to Candidate Ledford. The subpoenas that the Board has issued and some additional subpoenas were to be forwarded to Mr. Wijewickrama for him to serve on whatever parties he wished to subpoena to the hearing. If there is a formal appearance of any other attorneys or any of the other parties, Mr. Laws will forward to them subpoenas to be issued. Mr. Laws presented the written subpoenas to the Director, informed the Board that they were public documents, and asked that she disseminate them upon request.

Mr. Laws will contact a court recorder for the hearing. Clerk of Court Mark Cody confirmed the courtroom availability for the hearing dates. Mr. Laws asked the Director to contact State General Counsel Don Wright to inform him that no Board members have recused themselves and the hearing will commence on March 24th.

The Director asked the Board to be excused from the hearing proceedings so she could attend the State Board of Elections training. Mr. Laws informed the Board that at this time the Director has no role in the proceedings. Secretary Smathers indicated that the Director and Deputy Director should attend the State Board training.

There was discussion that local boards have no procedure for hearing the allegations against individual Board members.

There was discussion regarding the parties responsible for filing the allegations against the individual Board members. It was unclear as to whether the Counsel for the Petitioners or the Petitioners themselves filed the allegations.

APPROVAL OF MINUTES

Moved, Seconded (DS, JW) and Carried (3,0) to approve meeting minutes from the February 19, 2014 Regular Session and March 7, 2014 Emergency Session as presented.

Moved, Seconded (JW, DS) and Carried (3,0) to amend the February 19, 2014 minutes to reflect that Member Wallin stated it was a "privilege to serve" on the Board of Elections.

CHAIRMAN'S REPORT

Chairman Gibson reported that he was spending a lot of time with the candidacy challenge due to public interest.

MEMBERS' REPORT

Secretary Smathers indicated there is a huge amount of public interest in the candidacy challenge.

DIRECTOR'S REPORT

The budget report reflected expenditures and revenues through February 28, 2014. Line items reflect the increases in line items that were approved at the January County Commissioners meeting. The electricity line item will need to be amended due to the increase in electrical costs this fiscal year. The Director discussed with the County Manager the upcoming cost of the candidacy hearing. The fiscal budget does not include funds for attorney fees. Funds are to be requested of the county manager as the need occurs and invoices for related services and costs are presented.

The training of one stop staff will be Thursday, April 3rd and the training of election officials for Election Day will be on Saturday, April 12th. Both sessions will be held at the Cooperative Extension Building Auditorium. There will be training scheduled at a later date for the poll worker assistants.

The Director discussed the training materials and the need for a letter to be included from Board members to the Election Officials.

NEW BUSINESS

Moved, Seconded (DS, JW) and Carried (3,0) to appoint Bill Williams as the Republican Judge at the Spring Creek Precinct and Sandra Williams as the Republican Judge at the Sandy Mush Precinct.

Moved, Seconded (DS, JW) and Carried (3,0) to appoint as one stop early voting precinct workers Lockie Coates, Charles Gardner, Barbara Thomas Shelton, Scott Petrucha, Sandra Petrucha, Laura Denton, Maryanne Hyder, Jacob Ray, Peggy McConnell, Neil Willis, Fay Ball, Judith Ball, Martha Morgan, Sharon Baker, and Sarah Shaner.

Moved, Seconded (DS, AG) and Carried (3,0) to approve the Madison County One Stop Early Voting Plan. The State Board of Elections has approved the Madison County One Stop Early Voting Plan.

There was discussion about improvements and security for Room 26 as the site for machine preparation and testing and one-stop early voting.

Moved, Seconded (DS, JW) and Carried (3,0) to count absentee votes at 2:00 p.m. on Election Day.

The Director presented the Notice that absentee ballots will be counted at 2:00 p.m.

Moved, Seconded (DS, JW) and Carried (3,0) for the Director to prepare a budget plan for the Board of Elections members to review and send to the County Commissioners with a recommendation they set aside funds each year up until the time for the purchase of new voting equipment.

OTHER MATTERS

NONE

PUBLIC COMMENT

One stop early voting machine security was discussed.

Bi-Partisan representation during the testing of machines was discussed. Observers are welcome during the process. Party Chairmen are notified of the machine testing dates.

Comment was presented thanking the Board for developing a plan and budget for the county to fund voting machine replacement costs.

CLOSED SESSION

Moved, Seconded (DS, AG) and Carried (3,0) to go into closed session to discuss personnel.

Moved, Seconded (JW, DS) and Carried (3,0) to return to regular session.

Moved, Seconded (AG, DS) and Carried (3,0) to employ Fay Ball as a part time office assistant for 30 hours per week at a rate of \$10.00 per hour and to employ Laura Denton and Jacob Ray as PRN office assistants.

ADJOURNMENT

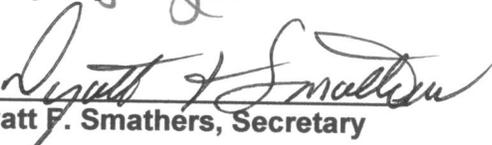
Moved, Seconded (DS, AG) and Carried (3,0) to adjourn at 7:45 P.M.



Kathy Ray, Director



Andy Gibson, Chairman



Dyatt F. Smathers, Secretary