MADISON COUNTY BOARD OF ELECTIONS
ABSENTEE SESSION
Board of Elections Conference Room
Tuesday, April 15, 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 4:35 P.M. at the Board of Elections Office Conference Room. Board and staff members in attendance were Andy Gibson, Chairman; Dyatt Smathers, Secretary; Jerry Wallin, Member; Shirley Ponder, Deputy Director; Donny Laws, County Attorney; and Kathy Ray, Director.

STATE BOARD OF ELECTIONS NOTICE

Chairman Andy Gibson asked County Attorney Donny Laws to lead the discussion regarding the email received on Friday, April 11, 2014 from State Board of Elections (SBOE) General Counsel Don Wright. The email included a State Board of Elections Meeting Notice for April 22, 2014. The notice informed that the Hearing on Appeal of Candidate Challenge and the Pending Removal Petitions of Two Madison County Board Members would commence on 22 April, 2014 at 9:00 a.m. at the State Board of Elections located at North Harrington Street in Raleigh, NC. The email content invited the Madison County Board of Elections members to attend but indicated that the State Board of Elections expected the attendance of the two Board members referenced in the removal petitions. The email further informed that it was unclear whether or not the Director of Elections and Legal Counsel needed to attend.

County Attorney Donny Laws indicated that he would attend the SBOE meeting at the direction of the Madison County Board of Elections. He informed the Board that the SBOE hearing would be a hearing on the record (transcript) of the local Board of Election's 24 March, 2014 hearing on the candidacy challenge of C. John Ledford for Madison County Sheriff. The State Board of Elections has been provided briefs by both parties. The SBOE will review them and ask questions. It will take no additional evidence and cannot require any more evidence without subpoenas. Legal counsel present at the SBOE hearing can provide or answer questions.

Chairman Gibson said he did not intend to go to the SBOE without a subpoena. County Attorney Donny Laws advised the two Board members named in the removal petitions to go to the SBOE meeting.

The Board and County Attorney contacted SBOE General Counsel Don Wright by phone during the meeting to get clarification regarding the two removal petitions. During the conversation, Mr. Wright clarified that the petitioners are representing themselves on the removal issue, and that the removal petitions were, in fact, requests for the two Board members to be permanently removed from the Board of Elections. He informed the Board that he would consult with State Board Chairman Josh Howard the following day (Thursday, April 16th) to determine if Chairman Gibson needed to attend the SBOE meeting.

Discussion ensued regarding the transmission of information between the SBOE and county Board members. It was determined that an email was sent to the Board of Elections Director who forwarded it to the County Attorney regarding the removal of both Chairman Andy Gibson

and Member Jerry Wallin. Chairman Gibson and Member Wallin said they did not receive a copy of the email. The email was the Madison County Board of Elections' notice of the impending SBOE hearing. Chairman Gibson and Member Wallin indicated they did not receive a copy of the petition for removal.

Mr. Peter Orthmann affirmed that the removal petition is regarding permanent removal from the Board of Elections.

County Attorney Donny Laws informed the local Board that the SBOE has the authority to remove county Board members.

The Board determined that the services of County Attorney Donny Laws would not be needed during the SBOE hearing on 22 April, 2014, and no action was taken regarding the SBOE meeting. Board members will make individual decisions regarding whether or not to attend when they hear from General Counsel Don Wright.

ABSENTEE BALLOT APPLICATIONS

The Director and the Board reviewed the section on absentee applications and ballots of the SBOE document "What Constitutes a Vote" prior to reviewing the absentee applications for approval.

Member Jerry Wallin excused himself from the meeting prior to the review of the absentee applications for approval.

Moved, Seconded (DS, AG) and Carried (3,0) to approve 11 applications and to disapprove four applications as presented and listed on the Pollbook of Absentee Voters report. Each application and ballot was reviewed individually for proper execution and approval/disapproval. The Board of Elections will attempt to contact voters of disapproved applications and correct deficiencies.

All doors on the optical scan tabulator were opened to verify the machine contained no ballots and the zero results tape was signed by Board members. Numbered door seals were placed on all doors of the machine with Board members and office staff recording seal numbers.

Ballots were removed from the containers and deposited into the M100 optical scanner. Ballot count at the beginning of depositing the ballots was zero. The ballot count at the end of depositing the approved ballots was 11.

Moved, Seconded (DS, AG) and Carried (3,0) to adjourn at 6:10 p.m.

ANNOUNCEMENTS

Next absentee meeting: Tuesday, April 22, 2014

Kathy M. Ray

Kathy Ray, Director

Andy Gibson, Chairman

Dyatt Smathers

Dyatt Smathers, Secretary