

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Regular Business Meeting
4:30 p.m.

September 18, 2017

SUMMARY MINUTES

PRESENT: Chairman Dorothy Hall, Vice-Chairman Harry Osborne, Secretary Ruth Ash, Board Member Patricia Pullar, Board Member Carol Wesley, Director Shauna Dozier, Elections and Registration Supervisor Kamardi Carter and Clerk Allison Ruotolo. GUEST: Attorney E. Charles Reed, Deputy Chief Operating Officer Alex Cohilas.

1. Chairman Hall called the meeting to order.
2. Moment of silence observed.
3. **Motion by Secretary Ash, second by Vice-Chairman Osborne, to adopt the agenda for the September 18, 2017 Regular Business Meeting of the Clayton County Board of Elections and Registration. Vote unanimous.**
4. **Motion by Vice-Chairman Osborne, second by Board Member Wesley, to approve the minutes of the August 8, 2017 Regular Business Meeting of the Clayton County Board of Elections and Registration. Vote unanimous.**
5. Chairman Hall welcomed the public and stated any comments regarding the ACLU lawsuit needed to be made during the time of public comment.
6. Public Comment: None.
7. Old Business:
 - A. Supervisor Carter informed the Board he contacted the Clayton County Probation Office regarding Mr. Benjamin Galimore confirming his felony conviction and that he is currently on probation. Mr. Carter is awaiting written correspondence from the probation office regarding this matter.

Director Dozier requested the Board table this matter until correspondence could be sent to Mr. Galimore due to the delay in receipt of the information from the probation office.

Board Member Pullar requested a letter be included with the written correspondence from the Clayton County Probation Office be sent to Mr. Galimore inviting him to the next board meeting.
 - B. Ms. Dozier requested the Board table the discussion of the Election Center Renovations until later on in the agenda when Mr. Stanford could be present to go over the information with the Board.
 - C. Mr. Reed stated his understanding from the last meeting was to address and discuss a possible interest in the Board becoming party to the lawsuit between the ACLU and Fulton County; and he feels it is more appropriate to discuss the matter in Executive Session.
8. New Business:
 - A. Director's Report.

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Regular Business Meeting
4:30 p.m.

September 18, 2017

SUMMARY MINUTES

- B. Qualifying Challenge – Ruffin vs. Windley.
- C. Voter Registration Challenge – Simpson vs Wright.
- D. Hearing to remove felons from elector’s list.
- E. Hearing to remove deceased voters from elector’s list.

9. Director Dozier highlighted the following activities since the last board meeting:

As of September 1, 2017 there are 166,975 registered voters.

Information was received from the Secretary of State’s Office regarding the Voter Participation Center and their distribution of voter registration applications. The Voter Participation Center has started sending out the pre-filled voter registration applications in Georgia and Clayton County is estimated to receive 29,912 applications. The office has been receiving phone calls regarding the applications. Staff are explaining the applications are coming from a third party organization but that our office will process the application if received.

Board Member Pullar requested Director Dozier forward the information received from the Secretary of State’s Office regarding the Voter Participation Center to the Board.

The City of Riverdale’s redistricting information has been updated and new precinct cards have been requested from the Secretary of State’s Office to send to the voters with a notice about the changes.

New precinct cards have been ordered for the City of Jonesboro indicating a change in precinct from last year’s Special Election the County conducted. A notice will be included with the precinct card.

The City of Conyers in Rockdale County will be piloting the new voting system software with Election Systems and Software for the upcoming municipal election. On September 5, 2017 Ms. Dozier attended the press conference and public demonstration of ExpressVote. One of the features includes a verifiable paper receipt. Director Dozier has already been in touch with ES&S for a demonstration with Clayton County.

Ms. Dozier provided the Board with a No Contact Confirmation Notice process timeline.

Vice-Chairman Osborne requested Ms. Dozier verify if there is a status update explanation on the notice.

Director Dozier stated she has provided the cities with a timeline for election events.

10. Qualifying Challenge – Ruffin vs Windley

Mr. Kenneth Ruffin presented the Board with several documents to include (Exhibit A) a copy of House Bill 548 signed by Governor Deal, effective May 3, 2017; (Exhibit B) a copy of the City of Riverdale’s Code of Ordinances; (Exhibit C) copies of Municode invoices dated June 15, 2017 and September 13, 2017, a check request form in the amount of \$350 for the admin support fee to Municode, and a copy of purchase order information from the City of Riverdale to Municipal

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Regular Business Meeting
4:30 p.m.

September 18, 2017

SUMMARY MINUTES

Code Corporation; (Exhibit D) a copy of an email from Ms. Melody Johnson at the Secretary of State's Office with instructions on how to decrypt the voter list zip file he requested with password; (Exhibit E) paper copies of an excel spreadsheet indicating Mr. Windley's alleged registration information; (Exhibit F) a copy of Mr. Windley's 2016 W-2 Wage and Tax Statement; (Exhibit G) a copy of a Letter of Resignation from Mr. Windley dated November 14, 2016; and (Exhibit H) a copy of Notice of Candidacy and Affidavit for Mr. Windley dated August 21, 2017 to support his burden of proof as challenger.

Director Dozier presented voter information for Mr. Terry Windley to include a Department of Driver's Services application received by the Elections and Registration Office dated for August 16, 2017 to update Mr. Windley's address to 8219 Mountain Pass, Riverdale, Ward 3. Prior to the update, Mr. Windley submitted a voter registration application dated for August 18, 2009 where he was registered at 6603 Church Street, Riverdale, Ward 1. Earlier voter registration applications indicate Mr. Windley was registered in Jonesboro, GA and at 6711 Church Street, Riverdale, Ward 1 in 1996.

Vice-Chairman Osborne stated to Mr. Reed, as he understands, this law was passed to be effective in May 2017. What it says is that going back to November 2016 you had to be a resident of the district in which you are running. Mr. Osborne asked if you could do that. The day before it was in effect somebody did not have to live in the district for twelve months, and now less than twelve months from the date of the election, it is saying you should have been here twelve months from November, but at the time they did not know and it was not the law that they had to live in that district in November 2016. Mr. Osborne stated he does not know if it is actually an ex post facto law, but that is what it sounds like to him. He does not see how you can go beyond the date to put into effect seven months prior to that a requirement that they did not have before. Mr. Osborne requested legal direction for the board and asked the additional question of Mr. Reed if he is of the opinion that you cannot change in May something that relates back to November on the printed page in front of us, does the Board have to go by that or can they go by their understanding that this law cannot go back seven months.

Mr. Reed stated it does not say specifically that it is retroactive but by the language it appears that it is retroactive applying according to Section 8(b), "shall be elected in November 2017", but section (e) states, " must reside in the ward for which he or she offers for elections for at least 12 months prior to an election." It suggests you would have to look as of November 2016 whether that person was in fact a resident of that ward. Mr. Reed's opinion as best as he can say is he does not think that the Board can address a constitutional issue to this statute because it is outside of the Board's purview. The Board can look at what the law says and apply the law to the facts as they understand them to this law. Any defenses to that would occur beyond your scope. As far as the Board is concerned they should look at what the language of what the statute says and apply that language to the facts that come before you. Mr. Ruffin has presented his evidence. I think it is fair to hear from Mr. Windley. If Mr. Ruffin has carried his burden upon your reading of the statute then the Board would make the decision accordingly. At that point, the law does give the parties the right to appeal.

Mr. Terry Windley of 8219 Mountain Pass thanked Mr. Ruffin for all of the information and stated he wanted to fill the Board in. Mr. Windley stated he did live in Mr. Ruffin's ward in 2016 and that Mr. Ruffin is aware that while Mr. Windley lived in Chateau Forest Apartments there

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Regular Business Meeting
4:30 p.m.

September 18, 2017

SUMMARY MINUTES

were shootings that took place. Mr. Windley's vehicle was shot, a Clayton County Deputy was shot, Major Barney was killed, and several others were killed. Mr. Windley, a Deputy Sheriff, was in the middle. He worked for the city for seventeen years and lived in Riverdale for twenty-four. Mr. Windley has a ten-year-old son he gets every other weekend. Due to the violence in the subdivision Mr. Windley was not able to keep his son there. The reason 8219 Mountain Pass is his address is because he was renting a room there while getting his son every other weekend. Mr. Windley was also a code enforcement officer in Riverdale and is now a code enforcement officer in Fayetteville. Under Municode qualifying it says a person must live in the city for one year which Mr. Windley states he met the qualification. Mr. Windley stated the information Mr. Ruffin claims the citizens received was not true. No information has been provided to the citizens including the ward changes. He provided the Board with (Exhibit I) a copy of the month to month rental agreement for 8219 Mount Pass. Mr. Windley stated he has older children that live in Douglasville and it is a medium distance with his ten-year-old son who lives in Henry County that he needs to keep safe from the shootings and people being killed. Mr. Windley stated he feels he has met the all of the qualifications to run for office and did what he had to do keep his children safe.

Board Member Pullar asked Mr. Windley if Mount Pass is in the district and if he has lived there for one year.

Mr. Windley stated Mount Pass is in Ward 3 and if you look at the date on there he has been there for one year.

Ms. Pullar told Mr. Windley he needed to present more documentation to where he lives.

Mr. Windley asked if the lease agreement was not sufficient documentation.

Ms. Pullar stated the document has not been notarized so they the Board does not know who signed it that it could have been filled in on the internet.

Mr. Windley stated if the lease agreement needed to be notarized he could get it notarized. He presented the Board with (Exhibit J) a Georgia Power statement covering service period July 26, 2017 – August 25, 2017.

Chairman Hall asked Mr. Windley if he had any tax statements.

Board Member Pullar asked Mr. Windley if he had a W-2 stating he lived at Mountain Pass from 2016 and if they were to call the rental office would they verify Mr. Windley's residence for one year.

Mr. Windley stated Mountain Pass is a house that he rents from a person.

Chairman Hall asked Mr. Windley if this is the total amount of information he is presenting.

Mr. Windley stated his rental agreement, bill, and the fact that he has lived in the city for over a year.

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Regular Business Meeting
4:30 p.m.

September 18, 2017

SUMMARY MINUTES

Ms. Pullar asked Mr. Windley if he could contact Georgia Power or go on the internet under his account and pull a copy of a bill from last year.

Mr. Windley said he could try but when would the Board need the bill.

Ms. Pullar explained to Mr. Windley the Board needs to make a determination based on the evidence Mr. Windley provided and the documents submitted are not verifiable. She asked Mr. Windley why he only brought this month's Georgia Power bill and not a whole year.

Mr. Windley stated in the State of Georgia a lease agreement is evidence enough.

Ms. Pullar stated the Board is looking for something that would refute all the overwhelming documentation that the other side has presented to us.

Vice-Chairman Osborne asked Mr. Reed if an abstention would be a positive vote or to be counted as a vote in favor of the motion.

Mr. Reed explained there would need to be a legal basis for an abstention.

Mr. Osborne stated he is not able to vote because he thinks this law is not valid and if an abstention if a positive vote, then he will vote negative. He does not think there has been sufficient evidence by either party. None of the documents have been authenticated in a legal sense. Mr. Osborne thinks the documents should be authenticated just as evidence would be authenticated to present to a court before they are brought before the Board. He does not think either party has done that. Second, this law cannot be right and he defers to Staff Attorney advice that we cannot ignore the law or vote contrary to the law but he is not going to vote for it either. Thirdly what was presented although not authenticated that there was no publication of the change of this law by Municode or any other way that would give notice to the citizens of Riverdale that there was a different ball game that they had to be a resident of the district twelve months before. And for those three reasons if you tell me I cannot abstain, I'm going to vote against it for those three reasons and not in favor of Mr. Windley. This is an awful situation.

Board Member Pullar stated if we are discussing this and you're talking about authentication then can this document be authenticated from the Elections and Registration Office that this is in fact the voter file that was provided to the City of Riverdale.

Mr. Osborne stated we have a motion before the Board and he thinks it's over that they have presented their evidence. He doesn't think their evidence meets any kind of legal standard whatsoever, none, absolutely zero.

Ms. Pullar asked if we are in discussion mode.

Chairman Hall stated we were.

Ms. Osborne stated yes.

Ms. Pullar asked Director Dozier if this is a voter file list.

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Regular Business Meeting
4:30 p.m.

September 18, 2017

SUMMARY MINUTES

Director Dozier stated she did provide the City of Riverdale a voter file but she cannot verify if that is the voter file. What she can verify is the street.

Ms. Pullar stated she thought she'd done that.

Ms. Dozier stated yes.

Ms. Pullar stated that in fact it really puts the burden back on Mr. Windley to provide something that disputes or refutes this voter file and you have the voter registration which is an official voter registration that says he just changed his voter registration in August 2017 and that in fact he was living in the Church Street address since 2009.

Director Dozier stated Mr. Windley was registered to vote at the Church Street address in 2009 and updated his voter registration to Mount Pass August 16, 2017.

Ms. Pullar asked Director Dozier where Mr. Windley voted for the November 2016 election.

Ms. Dozier stated Mr. Windley voted at the Church Street address.

Motion by Board Member Pullar, second by Board Member Wesley, that it is found that the challenger Mr. Ruffin has produced sufficient documentation to show or indicate that Mr. Windley has not resided in the district for one year according to code and City of Riverdale legislation and policy for the ward or district for this election November 2017; therefore, the challenger has proven there is not sufficient evidence for Mr. Windley to proceed in this election of November 2017. Motion carries 3-2. Chairman Hall in favor, and Vice-Chairman Osborne and Secretary Ash opposed.

11. Voter Registration Challenge – Simpson vs. Wright

Director Dozier stated the office did speak with Ms. Simpson. Both parties have been contacted. We have not received any information from Ms. Quatisha Wright. Ms. Shirley Simpson contacted the office today and said she would not be in attendance.

Board Member Pullar asked about the challenge.

Ms. Dozier informed Ms. Pullar that Ms. Simpson wanted to challenge the voter registration of Ms. Quatisha Wright. Ms. Simpson indicated she received a confirmation notice at her address for Ms. Wright who does not live at her address nor has lived there before.

12. **Motion by Vice-Chairman Osborne, second by Secretary Ash, to remove the list of felons from the electors' list. Vote unanimous.**

13. **Motion by Vice-Chairman Osborne, second by Board Member Wesley, to remove the list of deceased voters from the electors' list. Vote unanimous.**

14. Deputy Chief Operating Officer Alex Cohilas explained the proposed renovations of the Elections Center to the Board. The Elections and Registration Office has been using the front

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Regular Business Meeting
4:30 p.m.

September 18, 2017

SUMMARY MINUTES

half the building in its entirety of about 10,000 square feet and due to the layout the office is spread out in multiple rooms. Basically the building was not designed for what the office uses it for. The County is building a new Information Technology building and would save a lot of money by relocating the Data Center to the Elections Center. Mr. Cohilas stated the proposal is to take 4,000 square feet of the space the Elections and Registration Office is currently occupying and renovate the entire building including the Elections and Registration portion. The County is using the architects that are employed to design the new building to draw up a workable floor plan for the two departments to cohabitate without interfering providing the security measures the Elections and Registration Office need and frankly updating the building to more modern standards.

Mr. Cohilas stated the County has been working with Ms. Dozier who has been working with Mr. Brookins on what to do to provide for temporary move of the Elections and Registration Office equipment to a secure storage facility during the remodel. The construction would be timed around the election schedule; and such time as to have a complete scope of work done and bidding process. There would be a combined effort of in-house and contractor work to maximize time and money. The County does not see the project going forward before the end of the year.

Mr. Cohilas further explained the County is cognizant of the security issues and storing the equipment. The rooms where the machines are being stored on carts will be designed to house the equipment better and utilize the space for workers. The County thinks it will be a good marriage to house both offices together because the Data Center actually supports the Elections and Registration Office by posting election results to the website. What it means in real terms is that construction costs have gone up so much that the pricing per square foot for new construction is between \$325 and \$365. The building will be remodeled to be more functional and to keep County costs down as much as possible. As we move forward, Mr. Cohilas will be prepared to come before the Board to provide updates with final floor plans and construction timelines. The County will not make any moves until everyone has been involved and knows what they are doing.

Board Member Pullar stated she understood the equipment would be temporarily moved and stored at the Archives building and then moved back. Ms. Pullar asked who would be responsible for moving the sensitive equipment back and forth; and making sure it is secured while at Archives.

Mr. Cohilas stated the equipment is not ready to be moved. He and Ms. Dozier have discussed security and want to be able to provide a more secure space within the Archives. He does not want to touch or move the equipment until they absolutely have to. We want to make sure we are handling and transporting the equipment properly according to the manufacturer's recommendations. Also that all security measures are met that are mandated by law and they'll put whatever security measures they need to put into place at the present Archive building to see to it that the security and sanctity of the machines are taken care of during their time period. They are very sensitive to the needs of the department.

Motion by Board Member Pullar, second by Chairman Hall, to adjourn to go into Executive Session to discuss litigation at 6:05 p.m.

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Regular Business Meeting
4:30 p.m.

September 18, 2017

SUMMARY MINUTES

Motion made by Board Member Wesley, second by Secretary Ash, to go out of Executive Session at 6:25 p.m. Vote unanimous.

The Board reconvened the Regular Business Meeting at 6:26 p.m.

Vice-Chairman Osborne stated he would like some guidance from the Staff Attorney. Hearings such as with Ruffin vs. Windley should the witnesses be sworn and should the documents be authenticated pursuant to legal standards.

Mr. Reed stated the Board is certainly taking evidence and making decisions based on the record before them and the record is what would be the subject of the appeal.

Mr. Osborne asked how the hearings should be conducted. Does the Board adhere to rules of evidence and swearing in of witnesses or are they at a lesser level.

Mr. Reed stated in general the statute contemplates you all being a Board that is taking evidence and if the evidence you are taking and you render a decision there are a few ways it can be challenged and those challenges are due to either, "In violation of the Constitution or laws of this state; In excess of the statutory authority of the superintendent; Made upon unlawful procedures; Affected by other error of law; Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or Arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion."

Board Member Pullar suggested setting a Board policy going forward that states if you are challenging anyone running for office these are the things you need to bring and we need some guidance in that so the Board is not arbitrary in deciding what is going to be official and what is not going to be official; and whether this person is right or this person is wrong.

Mr. Reed stated the Board could come up with a set of things you look at for determining that. That is certainly within your purview as a Board to set policy and procedures.

Ms. Dozier stated she did include in the letter to the parties that they should be prepared to provide supportive evidence on their behalf. Some acceptable items of proof are vehicle registration, income tax returns, utility bills, and property tax statements. They have the right to be represented by legal counsel at their expense. Failure to appear or provide proof prior to the meeting date may constitute call to withdraw the challenge.

Mr. Reed stated in the general sense to answer the question the closer you get to a court the better but ultimately as long as you can satisfy the requirements of the statute, that you are not making arbitrary or capricious decisions, that you are abiding by the Constitution and that you are giving each side a turn to be heard.

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Regular Business Meeting
4:30 p.m.

September 18, 2017

SUMMARY MINUTES

{SIGNATURES NEXT PAGE}

There being no further business, motion by Board Member Wesley, second by Board Member Pullar to adjourn the Regular Business Meeting at approximately 6:35 p.m. Vote unanimous.

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Regular Business Meeting
4:30 p.m.

September 18, 2017

SUMMARY MINUTES

CLAYTON COUNTY BOARD OF ELECTIONS AND REGISTRATION

Dorothy Foster Hall

DOROTHY FOSTER HALL, CHAIRMAN

Harry A. Osborne

HARRY A. OSBORNE, VICE-CHAIRMAN

Ruth F. Ash

RUTH F. ASH, SECRETARY

Patricia Pullar

PATRICIA PULLAR, BOARD MEMBER

Carol Wesley

CAROL WESLEY, BOARD MEMBER

ATTEST:

Allison R. Ruotolo

ALLISON R. RUOTOLO, CLERK