

BOARD OF ELECTIONS

Linda J. Sutton
CHAIR

Frank M. Dickerson
SECRETARY

Jerry D. Jordan
MEMBER



Robert H. Coffman
Director of Elections

Lamar Joyner
Deputy Director

FORSYTH COUNTY BOARD OF ELECTIONS BOARD MEETING – May 18, 2010

Present: Linda J. Sutton, Chair
Frank M. Dickerson, Secretary
Jerry D. Jordan, Member

Staff: Rob Coffman, Director of Elections
Lamar Joyner, Deputy Director of Elections
Judy Speas, Senior Office Assistant
Kevin McGuckin, Assistant County Attorney

Call to Order

The Chair called the meeting to order at 1:04 PM in the Cooper Cardwell Elections Room.

Approval of Minutes

The Board reviewed the minutes for May 11, 2010. Ms. Sutton entertained a motion for corrections or additions to the minutes. Mr. Dickerson moved to approve the minutes. The motion passed unanimously.

Preliminary Protest Consideration

Ms. Sutton announced that the Forsyth County Board of Elections was gathered to hear election protests which refer to G.S. 163-182.10, Consideration of protest by county board of elections. The following principles shall apply:

The county board shall determine whether the protest complies with G.S. 163-182.9, Filing an election protest, and whether it is believed that a violation of election law or irregularity or misconduct has occurred. Ms. Sutton stated that the first requirement had been met where the protest complies with G.S. 163-182.9(a). The Board must now decide whether the second requirement for G.S. 163-182.9(b) has been met.

Mr. Jordan requested that Mr. McGuckin explain the procedure that the Board should follow during the preliminary hearing. Mr. McGuckin explained that there are three protests marked A, B and C and each should be considered on their own merit. He asserted that the first requirement had been met and that the Board must now consider the second requirement to establish whether there is a reason to believe that an election law violation or misconduct had occurred. The Board is not required to ask additional questions to determine whether the second requirement was met, but only to use the original document for the determination.

They may hear testimony if the protest advances to the Hearing stage. However, the Board agreed that it was proper to ask questions to clarify the wording of a document. The Board began with the protest statements in order:

- a. Victor Johnson, Jr.
School Board, District 1 official and candidate
2315 Manchester Street, Winston-Salem, NC 27105

Alleged violations of election law:

First, the electioneering law was violated. Second, the assistance to voters' law was violated, and third the vetting process was violated or not carried out. The election laws became a joke because they were not used.

Mr. Jordan reminded Mr. Johnson that voters are allowed to wear campaign shirts, stickers, hats and carry campaign pamphlets into the voting booth. Mr. Dickerson stated that a voter may request assistance, regardless of their particular physical disability, based on G.S. 163-166.8, Assistance to voters. Candidates are not excluded from giving assistance if the voter requests it from them. It would be a violation if the voter was not qualified to receive assistance; and, if the person giving assistance tried to persuade the voter to cast a vote in any particular way. Ms. Sutton, citing G.S. 163-166.8 - Assistance to Voters, stated that a request must be made by the voter to the chief judge, giving the reason. However, the precinct officials are not required to question the voter's reason beyond that point. Mr. Coffman described the script that the precinct official uses at that time. For instance, the judge would ask: Is the person giving assistance a relative? Is the reason a physical disability or an issue with illiteracy?

After some dialogue, Mr. Dickerson stated that the discussion was falling into an evidentiary hearing and that should not happen at that time. The Board must first decide whether there is probable cause of a violation before a hearing would be scheduled. Mr. Dickerson told Mr. Johnson that the protest may be appealed with more evidence of specific details. The Board agreed that it is troubling that there may be evidence that would cast doubt on the election process.

Ms. Sutton requested the pleasure of the Board regarding the protest of Victor Johnson, Jr. Mr. Dickerson moved to dismiss the protest complaint as it does not provide probable cause to believe a violation has occurred. Mr. Jordan agreed. The motion passed unanimously.

- b. Constance H. Johnson
2315 Manchester Street, Winston-Salem, NC 27105

Alleged violations of election law:

Proper vetting procedures were violated.

The question of campaign documents taken into the voting booth was discussed. Mr. Dickerson stated that a voter may take any document into the voting booth. The precinct judges do not monitor that activity. Mr. Dickerson also informed the audience that the Board had requested in a prior meeting that Mr. Coffman relay to the State Board to lobby for a change in the law regarding assistance. The Board had agreed that it does cast doubt on the election process for a candidate to assist voters.

Mr. Dickerson stated that Ms. Johnson's protest was very similar to Mr. Johnson's protest. He stated that the protest may be appealed with more credible evidence

of what occurred in the voting enclosure; or, evidence that a particular voter was not qualified for assistance.

Ms. Sutton requested the pleasure of the Board regarding the protest of Constance Johnson. Mr. Dickerson moved to dismiss the protest complaint as it does not provide probable cause to believe a violation has occurred. Mr. Jordan agreed. The motion passed unanimously.

c. Beaufort O. Bailey

County Commissioner – District A official and candidate
2619 Glenhaven Lane, Winston-Salem, NC 27106

Alleged violations of election law:

G.S. 163-166.8 election law and the HAVA Act were violated. The voting machines were not integrated; someone voted twice.

Mr. Coffman explained that the State Board of Elections provides the elections computer system to the county board of elections. Data from the individual machines is sent intermittently to the central server. A voter that was able to vote twice in one day came to a different computer from the first time that they voted. When the second vote was allowed to be processed, the system worked to prevent it. First, an observant poll worker noticed the voter. Second, the computer system flagged the voter. The failsafe result was that the duplicate was found by the end of the day and that the ballot was retrievable. The second ballot was eventually removed as directed by the Board. Mr. Bailey was assured that the voter was being investigated by the State Board. Mr. Dickerson stated that the flaw in the computer system was not an ultimate one. The Board was assured that there was not more than one voter who voted twice.

Ms. Sutton requested the pleasure of the Board regarding the protest of Beaufort O. Bailey. Mr. Jordan moved to dismiss the protest complaint as it does not provide probable cause to believe a violation has occurred. Mr. Dickerson agreed. The motion passed unanimously.

Ms. Sutton stated that the Board would notify both the protester and the State Board of the dismissal of the protests. The protester may file an amended protest or may appeal to the State Board. If the Board determines that both requirements are met, it shall schedule a hearing per G.S. 163-182.10, Consideration of protest by county board of elections.

Approval of 2nd Primary Ballot

Mr. Coffman presented the ballots for the Second Primary. There will be two Republican offices, one for the 12th Congressional District and one for County Commissioner At-Large; and one Democratic office for the US Senate on the ballot. Mr. Dickerson moved to accept the Second Primary ballot. The motion passed unanimously.

Temporary Polling Place Move

Mr. Coffman explained that Precinct 605, Latham Elementary School, would be temporarily moved to a different location for the Second Primary. Since Latham Elementary is under construction, the voting location would be moved nearby to the Winston-Salem Civic Club. Forsyth County mainly selects public facilities as precinct locations to assist in budget expenses. The voters in Precinct 605 would be mailed a letter to explain the temporary move for one election. The letter would also inform them of the Early One Stop schedule. Signs would be placed at

Latham Elementary on Election Day and information would appear in the newspaper. The 2010 General Election in November would be held at Latham Elementary School.

Ms. Sutton requested a motion regarding the temporary move of Precinct 605. Mr. Dickerson moved to hold the 2010 Second Primary for Precinct 605 at the Winston-Salem Civic Club. The motion passed unanimously.

Other Business

Mr. Coffman distributed a table showing voter participation for the Primary. The data showed the percentage of voters in each political party and the percentage of party preference for unaffiliated voters.

Adjournment

Ms. Sutton requested a motion to adjourn the meeting. Mr. Dickerson moved to adjourn. The motion passed unanimously and the meeting was adjourned at 2:40 PM.

Linda J. Sutton, Chair

Frank M. Dickerson, Secretary

Jerry D. Jordan, Member