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MINUTES OF BENTON COUNTY ELECTION COMMISSION

4-1-2011

TENA O'BRIEN
CO. & PROBATE CLERK
BENTON COUNTY, ARK

Commission members present: E. J. Miller, Chairman, Mike Sevak, Secretary, Bill Williams, Member

Others present: Amy Huston, Coordinator, Kim Umphres, Staff, Sharon Rose, Staff, Tom Sissom, media, Tena O'Brien, County Clerk, Christine Southard, Kris James, John Brown, Jim McCarthy, Robbyn Tumey, Duane Neal, Kathy Mahmens, Kelly Copelin, Gwen Millager, Chris Nogy

Chairman E. J. Miller called the April 1, 2011 Election Commission meeting to order at 9:04 a.m. and welcomed everyone.

Commissioner Bill Williams made motion that the minutes from the March 25, 2011 meeting be approved, seconded by Commissioner Mike Sevak.

Chairman Miller made an opening statement entitled, "The Trust". He stated that when you hear the words "the trust", the definition of this means integrity, honesty, visibility, openness, and trust to the voters of Benton County. Chairman Miller stated that he wants to set aside past differences and get on with the business of the voters of Benton County. Commissioner Williams agreed with him.

Election Coordinator Amy Huston stated that past minutes have been placed on the county web site. She reported that draft copies that have not been approved and filed are stamped 'draft' and are marked with a 'D' on the site.

Chairman Miller stated concerns about the amount of space the Election Commission has been allotted for the move to the Health Department and feels there is not enough space and that he would talk to Judge Clinard about this.

Chairman Miller opened discussion on redistricting plans and reported that he has chosen a committee to do this.

Commissioner Williams stated that he feels the Election Commission is well prepared for redistricting and that maps will have to be drawn for the redistricting. He stated that the history of redistricting has been reviewed and that there are two important factors with redistricting: (1) the drawing of maps should be done with accuracy with guidelines applied and the maps will be drawn with + or - 5% of 1/15 of the county's population, as there will be 15 JP districts and that he would like public input to ensure public confidence; (2) he would like to see two committees, one a technical committee involving the clerk's office, who has lengthy history, expertise, and map drawing capabilities. The second committee will be from the Election Commission Staff. He stated the committees are open for anyone in the public with interests. He stated that the Election Commission will be given new maps for review and the Election Commission will then have open public discussions throughout the county. He stated that the process will have to be very clear and done without bias.

Chairman Miller named the committee selected for redistricting: Robbyn Tumey, John Brown and Jim McCarthy. Chairman Miller stated this committee represents two Democrats and one Independent. Commissioner Sevak introduced the Republican choice, Duane Neal. Commissioner Williams commented that Chairman Miller had given a good core and foundation for the committee and stated again that the committee was open to everybody.

Chairman Miller made comments regarding the upcoming Annual School Election to be held Sept 20th. He stated that he has received the time-line calendar from the state, and the first deadline for the election is June 22nd.

Commissioner Williams asked County Clerk O'Brien or anyone in attendance, if there were any known changes in legislation concerning school elections. County Clerk O'Brien responded the only new legislation being proposed was for school elections to be held in conjunction with General Elections.

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Chairman Miller stated that he had received a spending statement for the Election Commission from Richard McComas, dated March 24th, and that all items on the statement had been clarified.

Chairman Miller opened the meeting for public comments, limited to three minutes per person.

Chris Nogy asked if a quarterly budget and expenditures were available for the public to view. Chairman Miller responded that he had extra copies of both, but they are also available on the county web site.

Kelly Copelin stated that he has called the Election Commission several times in the last few months, and he feels that the recording for the Election Commission is very long and drawn out, and recommended that the commission stream line it. Commissioner Williams agreed and recommended that he and the staff change the message.

Gwen Millager stated that she agrees with Mr. Copelin and that the telephone message needs to be as brief as possible. Gwen asked who has the responsibility to advertise voter registration and notice of elections and asked if the Election Commission would consider radio announcements.

Commissioner Williams stated that he plans on going to NWACC April 6th to have a voter registration drive. He stated that he would also like to see more public announcements for TV and radio. He stated that there are state statutes requiring the advertising of elections once or twice a year, and not all people see the announcements in the newspaper.

Chairman Miller stated that there probably needs to be more advertising and that he also has been asked by a teacher at NWACC to speak to students, which he will do.

County Clerk O'Brien stated that it is a requirement that publication for an election be done 40 days prior and that the clerk's office puts a notice in the newspaper for all elections. She also contacts TV, radio and newspapers with press releases. She said they don't do as many announcements as she would like, but the requests for publication are being made.

No further public comments were offered.

Chairman Miller opened discussion on the Siloam Springs Election billing from the August 10, 2010 city election. He stated this bill needed to be put to rest. He reported this was a stand-alone election for Siloam Springs with a total of about 200 votes cast. The election involved one precinct with one sheriff and three poll workers working in the poll for 13 hours, which resulted in \$472.00 in costs alone. Siloam Springs objected to the amount charged and was told by the Election Commission that the amount was open to negotiation. He stated that Commissioner Williams thought there had been an agreement made October 10th for \$5,000.00. Siloam Springs responded with a check to the Election Commission for \$369.55 and said that was all they were going to pay. Chairman Miller stated that this check doesn't even cover the cost of the poll workers, let alone any other expenses. He made a recommendation that the Election Commission sets up a meeting at the Election Commission on April 15th at 9:00 A.M. with George Spence followed by Siloam Springs representatives at 11:00 A.M. to discuss the billing.

Commissioner Williams stated he went to Siloam Springs and spoke with the Chief Financial Officer and the City Clerk and all agreed on the amount of \$5,000.00 to pay and he asked the Siloam Springs officials to put this agreement in writing. Commissioner Williams received two letters; one from the city administrator, and the second from the city attorney, both basically saying "no" to the agreement. Williams says that the problem lies with Siloam Springs not understanding state statutes. He stated that Siloam Springs's primary election has to be conducted by itself, and at a time when there are no other elections and the city is required to pay all expenses. He stated that the state statute reads that billing will be done in the same manner as a general election (i.e. the city will pay half, and the county will pay half) and based on this calculation, the price would come out to just over \$6,000.00, including general and administration fees. Commissioner Williams sent another letter to Siloam Springs about a month ago, and has not received a response. He stated that he would like to see County Attorney George Spence and the Siloam Springs representatives sit down together and discuss this matter, so we can move forward and if we cannot move forward then George Spence is there to represent us.

Commissioner Sevak stated that there should be a detailed billing on how the Election Commission arrived at the \$10,000.00 G & A cost, but he didn't see any of that on the bill. He also stated that he found 4 instances of differences between the amounts in the invoices and the amount stated on the billing. Commissioner Williams stated that Siloam Springs did not ask for a summarized bill, and the Election Commission would have given them one if they had asked.

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Commissioner Sevak stated that Siloam Springs needs to have a generalized bill to show them what the exact operating expenses are.

Commissioner Williams stated that the staff did not take the time for a breakdown of the billing, as they were busy working on the General Election.

Some discussion was had between Commissioners Miller and Williams regarding the meeting April 15th with George Spence and the City of Siloam Springs representatives. All three commissioners agreed to hold an Election Commission meeting April 15th at 9:00 A.M. County George Spence and Siloam Springs present. Chairman Miller asked Commissioner Williams to arrange for communication with George Spence and Siloam Springs to set up the meeting. Chairman Williams agreed to do this.

Chairman Miller noted that a letter had been sent to the Election Commission from County Judge Clinard on February 16th. He stated that the commissioners did not receive it from the coordinator until last week. Chairman Miller read the letter aloud. The letter clarified the relationship between the County Judge and the Election Commission concerning staff. The letter further stated that Election Commission staff, are employees of the county under the County Judge's authority and under state law, the county judge can appoint an agent to act on his behalf concerning Election Commission staff hiring, firing, and disciplinary matters and for administration purposes, employees will remain under the County Judge. The County Judge will allow the Election Commission to handle all matters and will step in only if the decision goes against the law. Chairman Miller asked that all three commissioners sign Judge Clinard's letter and that a letter had been written back to Judge Clinard stating that all three commissioners agreed with Judge Clinard's letter. He reported that all three commissioners had signed it.

Chairman Miller announced he has tentatively set the number of Election Commission board meetings to 24 for this year and that the commission budgeted for 32 meetings.

Chairman Miller opened discussion on changing the purchasing and expense approval policy. Presently the policy is that the coordinator can make purchases under \$1,000.00 without approval, purchases over \$1,000.00, takes the approval of the coordinator and the chairman. Chairman Miller proposed a temporary policy that all purchases and expenses be approved by the coordinator, chairman and one other commissioner and this policy would be in place for the next 30 to 60 days. Commissioner Williams disagreed with this policy change and suggested that instead, that the staff keeps a file open with all purchases and expenses, available to all commissioners at all times. Commissioner Sevak suggested the new policy be tabled and put up for review for the next 30 to 60 days. All three commissioners agreed to table.

Chairman Miller asked Election Coordinator Amy Huston if she had finished the binders containing election board minutes and election policies. Coordinator Huston showed the binders to everyone and stated that the binders will to be placed at the front desk for the public to view.

Chairman Miller called for a 15 minute recess and asked for an executive session meeting in the conference room. Topic of the executive session was a personnel matter.

Meeting Recessed.

Chairman Miller reconvened the meeting, stating that he would give a brief overview of where we were going and what we were discussing and will make it to the other two commissioners and to anyone who has comments. He stated that a letter has been prepared and signed by two of the commissioners. The letter states that at today's commission meeting, the current staff are relieved of their duties and are terminated, effective immediately. Chairman Miller voted yes. Commissioner Sevak voted yes. He asked if there is any discussion.

Commissioner Williams responded that he was the lone dissenter, and that this dismissal was not acceptable under the County Judge's order. He stated that the current County Judge is not following past practices and that Judge Bisbee required approval of all three commissioners. He stated that the commissioners have no authority for dismissing the staff and that this staff was competent. Commissioner Williams voted no for the terminations.

Chairman Miller asked Commissioner Sevak if he had a comment and he responded no.

Commissioner Williams pursued the issue of asking commissioners Miller and Sevak for a comment on whether the staff was fired. Chairman Miller stated that this is an "at will" state and answered, no comment.

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Commissioner Williams stated as "the descender, I say first of all, of all the cockamamie, stupid ideas that I ever heard in my life, this is far in a way, the champion. We have a competent staff. This dismissal, (a), is not acceptable under the judge's order. The judge's order makes it clear that it is his intension to continue past practice. Past practice on the part of Judge Bisbee was that it took all the commissioners voting together to hire or fire. So (a) I think we do not have authority to do this. The second thing is that it is clearly based on personal animosities that were supposed to have been put aside. Third, it's based on rumors and gossip. Fourth, it's based on things that are absolutely unreliable. It's nothing more than whispering over the fence. This is the worst travesty for the voters of Benton County I could ever imagine. This staff is competent. This staff has gotten compliments from the state agency that doesn't hand out compliments, the State Board of Election Commissioners. That these two commissioners would have taken an action like this, leave us without a staff of any kind, without any sensible knowledge what so ever -- it's past outrage, it's insane! It's, beyond words, gentlemen. I'm sorry, I withdraw that word. I VOTE NO! Let's be clear about it!"

Chairman Miller asked Commissioner Sevak if he had anything to add and Commissioner Sevak had no comment. Chairman Miller stated he had no comment.

Commissioner Williams asked Chairman Miller to state the reason from him and Commissioner Sevak why the staff should be dismissed. Commissioner Williams continued by stating that he thinks the law requires that it be stated. Chairman Miller did not agree and stated that this state or county is "an at will employment" and Chairman Miller would not make further comment.

Commissioner Williams stated the Freedom of Information Act requires that we repeat the discussion from the executive session. Again Commissioner Williams asked Miller to comment. Chairman Miller stated no comment. Commissioner Williams continued to request a reason for the dismissals from Chairman Miller and Commissioner Sevak. Chairman Miller asked the staff to gather their personal items and please leave the building.

The meeting was adjourned by Chairman Miller.

Respectfully submitted,

Mike Sevak, Secretary

Prepared by Tena O'Brien, Benton County Clerk

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