



**Pulaski County Election Commission
Meeting Minutes
October 17, 2014
5:00 p.m.**

Members Present

Leonard A. Boyle, Sr.
Chris Burks
Kevin Gorman

Staff Present

Bryan Poe
Shawn Camp
Tonya Washington

Visitors Present: Darrell Lane, Shauna Graves, County Clerk's office; Emily Walkenhorst, AR Democrat Gazette; Amanda Mankin Mitchell, County Attorney; Bruce Bender, Advance Print Solutions; Barry Haas, Citizen; Bilenda Harris-Ritter, Ritter Law Firm

The meeting was called to order by Chairman Leonard A. Boyle, Sr. A quorum was determined; all members present. Commissioner Kevin Gorman present via teleconference.

Approval of Meeting Minutes, October 1, 2014

Motion to table meeting minutes was made by Commissioner Gorman. Commissioner Burks noted that comments he made in the meeting were summarized and reflect accurately what he expressed in the meeting. It was seconded by Commissioner Burks. All in favor; motion passed unanimously by voice vote.

Business

November 4, 2014 General Election

Mr. Poe noted that when he asked for today's meeting to be called he felt there were a number of issues in recent days that could have had an impact on the November 4, 2014 General Election. However, those issues have been settled prior to today's meeting. This meeting can now serve as informational to give awareness to what will be done to resolve those issues.

Act 595 of 2013, also known as the Voter ID Law, was struck down by the Arkansas Supreme Court on Wednesday, October 15, 2014. Procedures that Pulaski County will be doing to ensure that this county is in compliance with the law for the November Election are attached to this meeting's minutes. This information will be mailed to approximately 800 poll workers. The procedures for authorizing voters will revert back to the year 2012/2013 election cycle. This information will be sent to the email addresses of poll workers available to this office as well. There are 595 addresses in this category.

The Notice of Election has been edited to remove the Voter ID Information box and the newspaper has been notified to remove the box from the publication as well. The amended

Notice of Election will be distributed to the polling places with the election supplies. Our Area Managers will be given a set of instructions regarding the changes to Voter Authorization procedures to review with the Chief Judges upon delivery of Election Day supplies and materials on the weekend before the election. This gives a face-to-face meeting with the Election Day Chief Judges letting them know the changes that have taken place with the procedures prior to November 4th. The Chief Judges will also go over the Reminders and Deadlines with their workers prior to opening the polls on Election Day. The Reminders and Deadlines will contain clear instructions on the procedures to be used in authorizing voters, emphasizing that ID is not required. These procedures have been written and will be followed with the intent of complying with the ruling of the Court to ensure that every qualified elector is able to cast his or her ballot and have it counted on Election Day. If it is necessary to go through further steps, this office will be glad to do so.

Mr. Poe has re-implemented procedures for early voting that will require early voting officials to have all voters state their name, address and birthdate. Because voters in Pulaski County complete an Early Voting Request Form containing this information, this requirement appeared to be redundant. In order to be compliant with the law, early vote officials will require voters to verbally state this information. Mr. Poe noted that he consulted with the State Board of Election Commissioners director, Justin Clay, and their counsel, Tim Humphries, and with Pulaski County Attorney, Amanda Mankin Mitchell. The section on the Early Voting Request Form requiring the election official to see that this information is completed on the form has been changed to reflect that the voter is to state their name, address and date of birth. Mr. Camp has also contacted all early voting chief judges of the change in this procedure so that workers will be aware to follow these steps during the early voting period.

Mr. Barry Haas stated that he visited the EV1 early voting site during the Annual School Election to vote and he noticed at that time that the election officials were not following the procedures for identifying voters. The official at that time asked for ID but did not ask him to verbally identify himself. He knew, being a longtime poll worker, the official was not completely following procedures. Chairman Boyle noted that the board does visit the polls during elections to observe election officials to see if they are following procedures as well. He noted, with the updates in procedures, this should be corrected.

Bilenda Harris-Ritter asked for clarification that Mr. Poe stated he consulted with the commission on the changes in the procedures. Mr. Poe noted that he incorrectly stated his comment and clarified that administration of election procedures is his responsibility and that he informed the commission of the changes he was making in the procedures and while informing the commission they thought the changes were a good idea. Mrs. Harris-Ritter then asked when Mr. Poe consulted with the board. Mr. Poe stated he spoke with the board over several days the previous week. Mrs. Harris-Ritter asked if he spoke to the board about something that could come up for action at this meeting. Mr. Poe said no, that it was not going to come up for action. It is his job to establishing procedures. Mrs. Harris-Ritter asked that even if the board disagrees with what Mr. Poe has done, the board is not going to do anything about it. Chairman Boyle stated that if the board disagreed, they would take action. Mrs. Harris-Ritter stated that she feels there has been an open meeting violation.

Commissioner Burks disagreed and explained that Mr. Poe's action is an action delegated by the commission to the staff within his job duties. He has taken administrative action and informed the commission. He keeps the commission informed and in the loop constantly. There has been no violation of the Freedom of Information Act (FOIA).

Commissioner Burks asked that it be noted in the minutes Mrs. Harris-Ritter's concern with FOIA. She has concern that there is a thin line with the director administering procedures that could possibly be issues that need to come before the board for discussion in public meetings.

Commissioner Gorman noted that he recognizes Mr. Poe has a large responsibility in terms of keeping the commission informed as to what he does. He noted that clearly the commission has not made any decisions that should have been made in a public meeting and that any discussions of Election Commission business have been as they should be. Commissioner Gorman noted his sensitivity to discussions on the budget and he is also sensitive to not stifling the director in not keeping the commission up to date on issues so that they are prepared to discuss them during election commission meetings. He also noted that sometimes the director is given circumstances where he is reaching out to the commission for guidance. Commissioner Gorman noted that the early voting procedures needed to be changed regardless, notwithstanding the Voter ID law being struck down. These changes will be good for Pulaski County.

For clarification, County Attorney Mankin Mitchell noted that if Mr. Poe has called each commissioner and polled them on a decision, he would have been clearly in violation of the FOIA. However, if it's just informational, and something that they would not normally vote on, then it is not in violation of the FOIA or the open meetings provisions of the FOIA.

Chairman Boyle noted that the commission has been very cognizant of the FOIA procedures and it is why the commission took the step to delegate certain responsibilities to the director of elections. The board is proud of the steps Mr. Poe has taken to comply with the FOIA.

County Attorney Mankin Mitchell stated that Mr. Poe has a duty to take up some of the steps to make sure that the commission remains in the loop and it in no way, form or fashion violates the FOIA.

Commissioner Burks noted that he takes the appearance of impropriety very seriously. He noted to Commissioner Gorman, for the record, that he and Chairman Boyle never discuss election commission business outside of meetings.

Ballot Printing

Mr. Bruce Bender was on hand to give a synopsis of the issues brought about concerning the recent problems with Election Systems & Software (ES&S) and receiving unacceptable ballot paper stock. He needed to order more ballot stock in order to finish the order. He was told that he could not get a shipment in the three week period he needed it to arrive. He was then told there was paper stock at a warehouse in Ohio and he could receive it in one week. While printing the ballots, the targets were not hitting on the ballots. In a 500-count package, the targets were moving all over the place. After printing about 45,000 ballots, Mr. Bender notified Mr. Poe his concerns repeating the same printing issues two years ago.

Mr. Poe asked if Mr. Bender had asked for replacement ballots and Mr. Bender stated that he had and was told by ES&S that he could not get ballots within a two week period because they were out of ballots.

Mr. Poe stated that when he was informed of this situation he called the commissioners and informed them what was going on. He immediately emailed the Secretary of State's office asking for their help. They were outstanding in helping to get this situation resolved. In his email to Mr. Rob Hammons of the Secretary of State's office, he informed him that this situation needed to be resolved immediately so that 50,000 Election Day ballots could be reprinted as soon as possible in order to distributed to polling locations.

After talking to Mr. Hammons, Mr. Poe received a call from Craig Seibert of ES&S and he assured Mr. Poe that he would work with our office to try and fulfill our needs. The ballot paper will be delivered today.

Mr. Bender noted the time to reprint the ballots is 30 hours. He stated that printing began this afternoon and they will continue on Sunday. He feels comfortable the ballots can be delivered on Wednesday because they have more than one press to print. In the event that one press breaks down or needs a part, which he does not anticipate, they can move the print job to another printing press.

Commissioner Gorman asked if there will be time to test ballots from the new stock. Mr. Poe stated that a test deck can be developed from the new stock in order to test the ballot stock. Mr. Bender stated that early and absentee ballots, as well as the first 158 Election Day ballot styles, are good because they were printed from the original ballot stock that Mr. Bender has on hand. It will be ballot styles 159 and beyond that will be reprinted.

Commissioner Burks noted that the Reminders and Deadlines information that will be posted at the polling locations is very clear on the changes that have taken place with voting procedures. Commissioner Burks and Chairman Boyle both noted that they have been approached about the new voting procedures by voters. Mr. Poe noted that signs will be posted at each polling location regarding the verbal identification procedures for voters in order to cut down on any resistance and the number of questions on Election Day.

OTHER BUSINESS

Chairman Boyle stated that he received a letter from the SBEC concerning accessible polling sites. He noted that he visits polling sites on election days to observe accessibility. He also extended an invitation the state board and anyone else to go with him when we visits sites during elections.

Mr. Poe noted that the SBEC voted to send a state board election monitor to observe polling locations in the General Election on November 4th. He stated that he will be looking forward to reviewing the board's report.

Early voting for the General Election begins on Monday, October 20, 2014.

Meeting adjourned.