

BOARD OF ELECTIONS

Ken Raymond
Chairman

Stuart Russell
Secretary

Fleming El-Amin
Member



Robert H. Coffman
Director of Elections

Lamar Joyner
Deputy Director

FORSYTH COUNTY BOARD OF ELECTIONS BOARD MEETING MINUTES – NOVEMBER 15, 2013

Meeting Called to Order

An emergency meeting of the Forsyth County Board of Elections was held in the elections storage room on November 15, 2013. The meeting convened at 4:30 PM, Chairman Ken Raymond presiding.

Board Members in attendance: Chairman Ken Raymond, Secretary Stuart Russell, Member Fleming El-Amin

Staff Members in attendance: Director Robert Coffman, Deputy Director Lamar Joyner, Joshua Chunn, Chris Duffey, Carlton Morgan, Judy Speas, Jacob Wright

Public Comment Session

Chairman Raymond welcomed the audience to the meeting which would address a tie that occurred in the vote total in the Tobaccoville Councilman race. Board members were asked to consider whether a public comment session should be called for the Tobaccoville recount issue only. Secretary Russell made and Member El-Amin seconded a motion to hear public comments about Tobaccoville only. **Motion carried unanimously.** However, no speakers volunteered to address the topic. Member El-Amin made and Secretary Russell seconded a motion to close the public comment session. **Motion carried unanimously.**

Recount

Chairman Raymond stated that the Tobaccoville race recount would involve about 320 votes within Precinct 032 – Northwest Middle School, Precinct 091 – Tobaccoville Community Center and Precinct 092 – Macedonia Baptist Church. The three candidates, Wayne Dodson, Lori Shore-Smith and Steve Wood, were present. Candidates were invited to assemble with their observers in the adjoining storage room as two precincts were recounted at a time. Mr. Coffman explained that the slow process could be completed more rapidly if representatives of the candidates also witnessed the recount. Each ballot choice would be called one at a time by a team member; and, two other team members would use fence posting to record all votes on precinct reconciliation tally sheets. Board members may need to determine the intent of the voter on a ballot. All candidates agreed that they would be comfortable with the process of the recount. Mr. Coffman explained the different types of ballots which were Election Day In Person paper ballots, Returned Absentee Ballots, the vote image ballot log of each One-Stop I votronic touch screen device and Provisional ballots. Before beginning in the recount room, Mr. Coffman gave additional information regarding overvote and undervote ballots. The Election Day In Person paper ballots were removed from the sealed ballot boxes and counted first. After all ballots were processed, Mr. Coffman

calculated the votes of each candidate. Wayne Dodson claimed a Councilman seat with 192 votes, but Lori Shore-Smith and Steve Wood remained in a tie for the second seat with 188 votes. Dodson's vote total remained the same while both tied candidates had gained one vote each from the Canvass count. Mr. Coffman stated that if a tie still exists, a blind draw is completed next. Chairman Raymond recommended one of the security guards to draw a name out of a hat. After the random draw, Steve Wood was the winner of the second Councilman seat. Because of questions with the undervote tally, the hand/eye count was rechecked for discrepancies in Precinct 032 – Northwest Middle School and Precinct 091 – Tobaccoville Community Center.

Preliminary Consideration of Election Protest

Chairman Raymond stated that a protest had been filed for the 2013 Municipal General Election by Lori Shore-Smith. Board members must now decide whether the protest meets the statutory requirements and has probable cause to proceed. Chairman Raymond asked the Board members to review the elements of the protest. Secretary Russell stated that the protest was on the proper form, filed timely and completed. Member El-Amin made and Secretary Russell seconded a motion that the protest filed by Ms. Shore-Smith does meet the statutory requirements. Secretary Russell discussed the two part analysis procedure for a clear understanding. Board members must concur with the first part whether the protest meets the statutory requirement; and, then consider the second part whether the protest raises probable cause. **Motion carried unanimously.**

Chairman Raymond requested that Assistant Attorney Lonnie Albright define probable cause regarding the protest. Secretary Russell asked whether Mr. Coffman had consulted with Don Wright, General Counsel for the State Board of Elections, to define how probable cause is addressed in the limited context of an election protest. Mr. Coffman stated that Mr. Wright explained that the definition is that there is a presumption that there is probable cause on an election protest when filed. It is better to err on the side of being conservative. If the protest accusation meets a great enough level to change the outcome of the race, the presumption is that probable cause has been proven. The hearing is a quasi judicial process where the Board members may issue subpoenas. The burden of proof is on the person filing the protest. They must prove that the accusation, which is the residency of a voter in this protest, is true. Secretary Russell stated that the protest form appears to be consistent with Mr. Albright's statement and Mr. Wright's information; and, is statutorily correct and complete. There is an accusation in the form that, if proven true, would alter the outcome of the election. So, this seems to state a sufficient claim that there is probable cause to trigger a hearing. Member El-Amin concurred with Secretary Russell and referring to NCGS 163-182.10(d)(2)c., said he saw no grounds to dismiss the protest. Chairman Raymond agreed based on the protest form information that probable cause has been met. Secretary Russell made and Member El-Amin seconded a motion to proceed with the protest hearing. **Motion carried unanimously.** Mr. Coffman stated that the hearing date must be set within ten days by statute. Board members set the hearing date for Thursday, November 21, 2013 at 8:30 AM. By statute, the certification of this Tobaccoville Councilman seat would be delayed while the Councilman seat of Wayne Dodson is certified.

Other Business

None

Adjournment

Member El-Amin made and Secretary Russell seconded a motion to adjourn the meeting. **Motion carried unanimously** and the meeting was adjourned at 6:30 PM.

Approved:

Ken Raymond, Chair

Date

Stuart Russell, Secretary

Date

Fleming El-Amin, Member

Date

Attachments on File: Election Protest by Lori Shore-Smith