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State of Tennessee



State Election Commission
312 Rosa L. Parks Avenue
9th Floor, William R. Snodgrass Tennessee Tower
Nashville, TN 37243

Jimmy Wallace
428 Wiley Parker Road
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(731) 668-2700

Tom Wheeler
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Kent D. Younce
423 Fairway Drive
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(423) 871-0245

NOTICE

NOTICE IS HEREBY GIVEN THAT THE STATE ELECTION COMMISSION WILL MEET MONDAY, SEPTEMBER 10, 2012 AT NOON, CENTRAL DAYLIGHT TIME IN THE ROBERTSON ROOM, THIRD FLOOR, WILLIAM R. SNODGRASS - TN TOWER, NASHVILLE, TN TO MAKE COUNTY ELECTION COMMISSION APPOINTMENTS PURSUANT TO TCA §§ 2-12-101 AND 2-12-106, AND TO CONDUCT ANY BUSINESS THAT MAY COME BEFORE THE COMMISSION AT THAT TIME.

IF A PHYSICAL QUORUM IS NOT PRESENT, AN EMERGENCY SHALL BE DECLARED TO EXIST AND THE MEETING SHALL PROCEED ELECTRONICALLY.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of State to discuss any auxiliary aids or service needed to facilitate such participation. Such initial contact may be in person, in writing, by telephone, or otherwise, and should be made prior to September 10, 2012, to allow time for the Department of State to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator, at Suite 700, William R. Snodgrass - Tennessee Tower, Nashville, TN 37243: (615) 741-7411, Tennessee Relay Center TDD 1-800-848-0298, Voice 1-800-848-0299.

**Contact for all other requests not listed above:
Elections Division - 615-741-7956**



State of Tennessee
Department of State
Division of Elections
312 Rosa L. Parks Avenue
9th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243
Phone: (615) 741-7956 Fax: (615) 741-1278

STATE ELECTION COMMISSION MEETING

September 10, 2012

NOON - Central Time

Robertson Room – 3rd Floor – William R. Snodgrass – TN Tower

AGENDA

1. **Approve minutes from:**
 - August 13, 2012
2. **County Election Commission appointments pursuant to TCA §§ 2-12-101 and 2-12-106.**
3. **Old Business**
 -
4. **New Business**
 -
5. **Coordinator Update**
 -
6. **Next meeting**
 - October 8, 2012 – Wm. R. Snodgrass – TN Tower – 3rd Floor Robertson Room – NOON

Minutes
State Election Commission Meeting
September 10, 2012

The State Election Commission meeting was called to order by Chairman Kent Younce at 12:10 p.m., Central Standard Time September 10, 2012. The following members and staff were present: Chairman Younce; Commissioners Blackburn, DuBois, Head, Wallace, and Wheeler, Coordinator of Elections Mark Goins; and Kathy Summers, Elections Specialist.

Motion was made, seconded and unanimously approved to adopt the minutes from August 13, 2012.

Pursuant to T.C.A. § § 2-12-101 and 2-12-106, motion was made, seconded and unanimously approved to accept the nominations for county election commission appointment as submitted by commission members and to leave nomination process open until 4:30 p.m., Central Standard Time, September 10, 2012. (See attached list of appointments made.)

Old Business

- Commission members discussed the Shelby County Election Commission Administrator Rich Holden's response to Coordinator Goins letter. (See attached letters.) Coordinator Goins advised Commission members Mr. Holden has been placed on probation by the Shelby County Election Commission and has received a three (3) day suspension without pay. Commissioner Tom DuBois requested the Shelby County Election Commission and/or Administrator of Elections appear at the next State Election Commission meeting.

Motion was made, seconded and unanimously approved to request the Administrator of Elections and or the Shelby County Election Commission to appear at the October 8, 2012 State Election Commission meeting.

New Business

- Chairman Younce spoke regarding Cannon County Election Commission. Dorinda Mankin has been hired through November to fill the spot of Administrator of Elections. There are two new county election commission members in Cannon County.
- Commissioner Wallace spoke regarding the Benton County Election Commission and requested this issue be placed on the October 8, 2012, State Election Commission agenda. Benton County AOE, Mark Ward was sued in Federal Court and the county insurer is refusing to pay the expenses associated with the court case based on

the federal court ruling. Commissioner Wallace would like for the State Election Commission to make a recommendation to the legislature to clear up this issue.

Commissioner DuBois made a motion which was seconded and unanimously approved requesting Coordinator Goins draft a letter by December for the State Election Commission to send to State and Local Government Chairpersons regarding the status of Administrators' of Elections and other county election commission issues which need to be cleaned up.

- Commissioner Wheeler discussed the letter he and fellow commission members received from Senator Jim Kyle suggesting the State Election Commission meet at the plaza and use streaming video for each meeting.

Motion was made, seconded to not move the meetings to the plaza. The following commissioners voted yes: Blackburn, Wallace and Younce. The following members voted no: Head and Wheeler. Commissioner DuBois was present not voting.

Coordinator Update

- **Davidson County – Administrator of Elections**

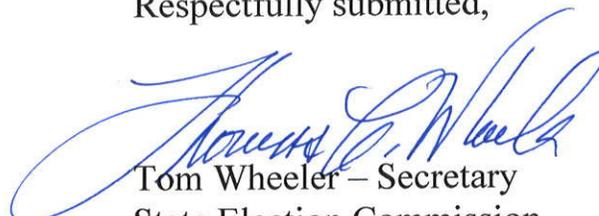
Coordinator Goins gave an update regarding Davidson County and the status of the electronic poll books.

Commissioner Wallace would like for Coordinator Goins to convey to Administrator Tieche that he has two strikes and that the State Election Commission is watching.

The next meeting is October 8, 2012. The meeting will be held in the William R. Snodgrass – Tennessee Tower, 3rd Floor, Robertson Room at NOON Central Daylight Time.

Motion was made to adjourn, and there being no further business to come before the commission at this time, the meeting was adjourned.

Respectfully submitted,



Tom Wheeler – Secretary
State Election Commission

Vacant Status

10-Sep-12

Benton

D Greg Duckett
R Jimmy Wallace

D

Decatur

D Greg Duckett
R Jimmy Wallace

R

Total Vacancies: 2

Holdover Status

10-Sep-12

		Appointment	Reappointment
Gibson			
D	Greg Duckett		
R	Jimmy Wallace		
	D Kathleen Smith	6/22/2007	5/27/2009
	D Robert S. Phelan	4/3/1995	5/27/2009
Haywood			
D	Greg Duckett		
R	Jimmy Wallace		
	D Aubrey Lee Bond	4/3/1995	4/6/2009
	D Ida Ruth Bradford	4/3/1995	4/6/2009
Henderson			
D	Greg Duckett		
R	Jimmy Wallace		
	D Cornelia T. Morris	4/3/1995	4/6/2009
	D Pope Thomas	4/17/2001	4/6/2009
Henry			
D	Greg Duckett		
R	Jimmy Wallace		
	D Paul David Hessing	4/6/2009	4/6/2009
	D Sylvia C. Humphreys	5/19/1998	4/6/2009
Total Holdovers: 8			

Tre Hargett, Secretary of State

State of Tennessee



Division of Elections
312 Rosa L. Parks Avenue, 9th Floor
Nashville, Tennessee 37243-0305

Mark Goins
Coordinator

615-741-7956
Mark.Goins@tn.gov

August 8, 2012

Richard Holden
Administrator of Elections
Shelby County Election Commission
150 Washington Avenue, Suite 205
Memphis, TN 38103

Rich,

As this office continues to attempt to identify why Shelby County voters were placed in the wrong districts and offered incorrect ballots during the August 2, 2012 election cycle, I would appreciate your responses to the following questions:

- When did you start the redistricting process?
- Who had oversight of the project?
- Was there a written plan for the redistricting process? If so, please include a copy.
- Which employees worked on the project?
- What were the roles and responsibilities of each employee?
- When did you first realize that there was a problem with your redistricting?
- What were the sources of the errors made during redistricting?
- Did you consult the new district maps to confirm changes were being applied correctly?
- Have you taken disciplinary action against any employees involved in the redistricting process as a result of the errors? If yes, what actions have been taken?

Additionally, it has been reported that voters in an area annexed by the City of Collierville last year had not yet been assigned as resident voters going into this election, in which there were local questions on the ballot. Please also answer the following questions as they relate to the City of Collierville:

- When did you receive the information from the City of Collierville required to update your records?
- Who had oversight of the project?

- Which employees worked on the project?
- What were the roles and responsibilities of each employee?
- What were the sources of the errors made regarding Collierville voters?
- Have you taken disciplinary action against any employees involved in the process as a result of the errors? If yes, what actions have been taken?

Thank you in advance for your responses to these questions. I hope that you are resolving any remaining issues. I respectfully request your responses by Wednesday, August 15, 2012.

Sincerely,



Mark Goins
Coordinator of Elections

cc: The Honorable Tre Hargett, Tennessee Secretary of State
Shelby County Election Commission

Shelby County Election Commission

ROBERT D. MEYERS
Chairman

NORMA LESTER
Secretary

GEORGE C. MONGER, III
DEE NOLLNER
STEVE STAMSON
Members



(901) 222-1200
FAX (901) 222-1217

RICHARD L. HOLDEN
Administrator of Elections

JOE WM. YOUNG, II
*Deputy Administrator
of Elections*

Mr. Mark Goins
State Coordinator of Elections
213 Rosa L. Parks Ave
9th Floor, William R. Snodgrass Tennessee Tower
Nashville, TN 37243

Mr. Goins,

This letter is to address the questions regarding Shelby Election Commission redistricting as stated in your recent letter. Let me begin by stating we were involved in a dynamic situation that to my knowledge has never occurred in the history of Tennessee. I did all possible, with the information available at the time, to assure voters received the correct ballot. With the advantage of hindsight and all I know now my decisions would be based on different facts. Redistricting in Shelby County was a dynamic situation with many moving parts. Having a new staff without redistricting experience and having no County Commission plan by the December 31 deadline were factors in the decisions made and actions taken at the time. The impact of no redistricting completed by the County Commission and the other issues involving the numerous government agencies involved in the redistricting process is now clear to all. We are not allowed a do over when an election is broken. The public expectation agrees with our goal of every voter receiving the correct ballot.

We fully developed a redistricting project management plan that included plan 2J with 13 County Commission districts. Hundreds of hours of work were invested in this redistricting plan based on the situation as defined at the time. That total work has been set aside and was not used to accomplish redistricting. Our staff continued to report the need for an acceptable timeline to accomplish the work to the Board at monthly meetings.

When did you start the redistricting process?

In preparation SCEC began 2 years prior to passage of legislation establishing new district lines. All SCEC managers attended and successfully completed Microsoft Project Management training at a local college. A Project Management redistricting plan was developed using PM2010. Every necessary step and task was broken down with required resources included. This plan was presented to the SCEC Board at a regular public meeting.

SCEC prepared by ordering the GIS mapping licenses recommended by our technical staff and a significant investment in staff training tools for GIS. The GIS mapping software was used and SCEC technical staff worked with the state and the software vendor to prepare for redistricting implementation. The voter registration vendor was brought into the process at numerous times to consult and assist. Staff was provided the documentation and training on GIS and on the voter registration system software redistricting process. New personnel were hired to increase staffing levels to those recommended by the technical staff with an emphasis on their GIS skills when hired and added to the staff.

We worked with the Comptrollers office on establishing census block lines for future redistricting efforts. Precinct changes were lost at the state level resulting in consolidations and changes made in the county in February of 2010 not being on record at the state. The legislation passed was based on state level information. SCEC had provided precinct consolidations and changes updates to the state over a year earlier and they were not provided to the legislative process. Thus, we had precinct issues requiring SCEC to make corrections to the state maps at the beginning of 2012. We have been informed the changes have been implemented at the state level. In preparation for redistricting we attended all state meetings and the Office of Local Government came to Shelby and held training classes for the SCEC staff.

All precincts are to be based on Senate district lines and County Commission district (CCD) lines. It is critical that precincts never be split by either of these two district lines. As of this date, a County Commission redistricting plan has not been legally approved in Shelby County. Every redistricting document, including the Guide to Redistricting produced by the Comptroller's office, and every training class stated numerous times that precincts are drawn by the County Election Commission based on Senate and CCD lines. We attended the County Commission meetings, as requested by their Chairman, and worked with their Administration and support agencies. Redistricting of precincts was delayed continuously throughout 2012. This fact is public record and known by all involved in this critical process and by all Shelby voters. The County Redistricting plan is critical to use for a successful process but was never adopted. State law requires the plan to be delivered to SCEC by December 31, 2011 to successfully complete the redistricting process for the August 2012 election. The law was not complied with in this redistricting process. No legal action was recommended or taken by any level of government involved in Tennessee or Shelby County redistricting.

To comply with holding a legal election in August the precincts must be based on the Senate and County Commission lines in existence on August 2, 2012. We worked through every detail of the process based on Shelby County Commission plan 2J which changes from 5 districts to 13 districts. In 2010, the County had 5 County Commission, 3 Congressional, 6 State Senate, 16 State House, a city school board, and a county school board. Redistricting in 2012 involves changing to 13 County Commission, 2 Congressional, 5 State Senate, 14 State House, no city school board, and new county school board districting. Months of work were invested by SCEC in this project. Our plan included reducing the number of precincts from 240 to 160 to improve the quality of Election Officials at the polls and to significantly reduce election costs on an ongoing basis. This plan could not legally be implemented without a County redistricting plan.

Delays were continuous and were well communicated to the state agencies involved in the process, SCEC Board, the legal teams, all involved County agencies and the voters of Shelby County. Everyone was aware of the major changes needed and the critical timing for an August

election. At no point did any of those involved indicate continuing on the path for 13 County Commission districts was an incorrect course for legal and proper precincts for the election cycle. Neither did any of those agencies or individuals involved say SCEC should redistrict using only the 5 existing County Commission districts or provide other alternatives for legal compliance. Without the above facts the answers to the below questions will mislead the reader.

SCEC Board decided on June 14, 2012 that the administration and staff must proceed at a rapid pace to implement the redistricting at all levels based on no County Commission redistricting plan. The next day a Chancery Court decide plan 2J had been approved in compliance with State law. We were then informed this decision was appealed based on the County charter. Precincts had to be developed based on the existing 5 County Commission districts. The precincts were drawn to include reducing the precincts from 240 to 220 to make all polling sites ADA assessable for the first time in Shelby County history. These changes and the changed district lines were directed to be implemented immediately. All the work involved with 13 County Commission districts remains stored on SCEC systems for use when a County redistricting plan is approved. The 13 district plan work could not be legally implemented.

Who had oversight of the project?

Computer Systems Analyst, Dennis Boyce

Was there a written plan for redistricting?

Yes

The original date is the project proposed date and would have been as close to certification of the March Presidential Preference Primary as possible.

This date had to be adjusted based on the actual dynamic situation in Shelby County.

Which employees worked on the project?

Administrator, Deputy Administrator, and entire Election Systems unit of 3 people.

What were the roles and responsibilities of each person?

Administrator developed a plan based on County redistricting plan 2J which was never implemented because it never became legal.

Others were as defined in the project management plan.

When did you first realize there were problems with redistricting?

I was aware of delays to CC redistricting in November of 2011 and they continue today.

The potential for problems was well known throughout the state of Tennessee before Implementation, as discussed above.

After we implemented the portion of redistricting we had, problems with implementation were brought to my attention after early voting began by the public.

I was informed during early voting there were precinct and district problems. We immediately developed a plan, assigned personnel with tools to address situation and dispatched the tools and personnel to the polling sites. We worked around the clock with state assistance to assure every voter received the correct ballot for their address. By election day the problem had been addressed to assure every voter received the correct ballot.

What were the sources of the errors made during redistricting?

380 splits in the County due to the significant redistricting changes as listed above. Implementation in the voter registration system involving all of these splits involved Manual entry of information for over 21,000 streets with many including block range splits. Hundreds of thousands of addresses are involved in Shelby County.

Did you consult the new district maps to confirm changes were being applied correctly?

Election Commission Election Systems (ECES) department used GIS mapping continuously throughout the process.

We used the maps provided by Office of Local Government although SCEC had to make numerous corrections to the maps for accuracy.

The redistricting team in ECES verified changes made as being correctly applied during the process.

Have you taken disciplinary action against any employees involved in the redistricting process as a result of the errors?

We will review whether people were given clear directions and did not perform or whether performance did not match expectations. Whether the error rate of 95% of the voters being correct was the result of a person with clear directions or were there mitigating factors that are not their fault.

Collierville annexation area questions.

When did you receive the information from the City of Collierville required to update your records?

We received an email with a web link to Collierville resolutions and it was forwarded to the Election Commissioners and ECES technical department May 8, 2012.

With the advantage of hindsight and subsequent input I should have provided greater detail along with the City's information to assure the job was completed properly.

Past practice had been forwarding the email and verbal discussions. That will not be future practice at SCEC.

Who had oversight of the project?

Computer Systems Analyst, Dennis Boyce

Which employee worked on the project?

ECES as directed by Dennis Boyce

What were the roles and responsibilities of each employee?

Roles assignments were made by Dennis Boyce on the project

Conversations led me to believe the changes were made to SCEC database which resulted in my email to Collierville saying the job was done.

A hard lesson was learned regarding better documentation.

What were the sources of the errors made regarding Collierville voters?

ECES informed me the project was completed and I responded to the City based on the discussion. I was informed during early voting there was a problem and 7 voters had chosen to return to the polls after SCEC corrective action. It became apparent during early voting the project was not complete and annexed voters were not properly assigned to Collierville. We immediately developed a plan, assigned personnel with tools to address situation and dispatched the tools and personnel to the polling sites. City of Collierville personnel met with SCEC and helped in every way allowed by election laws.

Have you taken disciplinary action against any employees involved in the process as a result of the errors?

We will review whether people were given clear directions and did not perform or whether performance did not match expectations. Whether 95% of the voters being correct was the result of a person with clear directions or were there mitigating factors that are not their fault.

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We will review whether people were given clear directions and did not perform or whether performance did not match expectations. Whether 95% of the voters being correct was the result of a person with clear directions or were there mitigating factors that are not their fault.

An election in Shelby County is a difficult task with thousands of moving parts and a civil service staff of less than 20 people. The election expands to nearly 2,000 voters as election officials.

There are over half a million registered voters and hundreds of polling sites using the 1,500 voting machines and associated equipment.

My belief and actions were based on drawing precincts to comply with state election laws required new county commission districts. Every document and every class related to redistricting reinforced that belief relative to the law. My goal is to assure 100% compliance with all election laws in accordance with the oath I took. I believed we could not act until the county commission enacted a redistricting plan. Moreover had the county commission passed a plan that changed the districts from 5 to 13, we would have had to start over and re-do all of the work. The timing would raise the same questions that exist today. Had they acted in compliance with state law we would have implemented the plan we developed after the March election certification and the results would have been dramatically different. Ultimately the responsibility for election administration is mine and implementation is a staff function.

Respectfully,

A handwritten signature in black ink that reads "Richard L. Holden". The signature is written in a cursive, flowing style.

Richard L. Holden
Administrator of Elections

Tre Hargett, Secretary of State
State of Tennessee



Division of Elections
312 Rosa L. Parks Avenue, 9th Floor
Nashville, Tennessee 37243-0305

Mark Goins
Coordinator

615-741-7956
Mark.Goins@tn.gov

August 17, 2012

Mr. Albert Tieche
Davidson County Administrator of Elections
P.O. Box 650
Nashville, TN 37202-0650

Albert,

During the August 2, 2012 election, Davidson County Election Commission utilized Electronic Poll Books at a number of the precincts in Davidson County. A few months ago, you approached me and informed me that if you did not purchase and use Electronic Poll Books this election year, the election commission would forfeit a few hundred thousand dollars in excess budget funds. Essentially, you explained this could be the only opportunity to purchase the equipment. I told you that I did not recommend using the Electronic Poll Books this election year. However, you assured me you would adequately train poll officials regarding usage and that you had thoroughly researched Electronic Poll Books.

On August 2, 2012, I inquired about the implementation of the equipment and you informed me that any issues with the Electronic Poll Books were isolated and had been corrected quickly. On August 16, 2012, I received information that a voter was given an incorrect primary ballot and had voted on that incorrect ballot at a polling location. Based on the conversation with the voter, I have drafted some questions to further ascertain whether this was an isolated issue or one that may be more widespread. I would appreciate your responses to the following questions:

1. When did you or your staff learn voters may have been given the incorrect primary ballots?
2. How many voters have contacted you or your staff by phone or in writing complaining they received the wrong primary ballot?
3. How many poll workers contacted you or your staff by phone or in writing regarding voters complaining they received the wrong primary ballot?
4. How did you correct the issue(s)?
5. What caused the voter(s) to receive the incorrect primary ballot?
6. Who had oversight of the Electronic Poll Book implementation?
7. Which employees worked on the project?

8. What were the roles and responsibilities of each employee that worked on the project?
9. Did you train your poll officials to ask voters if the voter was choosing to vote in the primary?
10. Have you taken disciplinary action against any employees involved in the Electronic Poll Book implementation as a result of the errors? If yes, what actions have been taken?

Thank you in advance for your responses to these questions. I respectfully request your responses by Thursday, August 23, 2012.

Sincerely,

A handwritten signature in black ink that reads "Mark Goins". The signature is written in a cursive style with a large, stylized "M" and "G".

Mark Goins
Coordinator of Elections

cc: The Honorable Tre Hargett, Tennessee Secretary of State
Davidson County Election Commission

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



ALBERT U. TIECHE
ADMINISTRATOR OF ELECTIONS

DAVIDSON COUNTY ELECTION COMMISSION
POST OFFICE BOX 650
NASHVILLE, TN 37202
(615) 862-8800
albert.tieche@nashville.gov

August 23, 2012

Coordinator Mark Goins
State Coordinator of Elections
312 Rosa L. Parks Ave., 9th Floor
William R. Snodgrass Tower
Nashville, TN 37243

2 AUG 23 PM 3:15
ELECTIONS

Coordinator Goins,

We received your letter of August 17, 2012 inquiring about the deployment of Electronic Poll Books for the August 2, 2012 election. Overall, the Commissioners, the poll officials, the staff and the voters were pleased with the introduction of the new technology at 60 polling places. There were some first-thing-in-the-morning jitters. However, by 8:30 the calls to the phone bank dropped to a minimal level.

On election evening I personally spoke with 120 poll officials from the 60 polls using EPBs. Their response was overwhelmingly positive and that included both old and young, Republicans and Democrats. The limited deployment was successful and on August 13, the Davidson County Election Commission voted unanimously to proceed with full deployment county-wide in November.

We have identified and recommend programming changes to the EPB vendor, ES&S, to improve the function of EPBs when there are both general and primary elections held concurrently. As you know, there will only be a general election on November 6, 2012.

Voters can be presented an incorrect primary ballot when a machine operator inadvertently selects the wrong ballot style, when the voter marks the wrong primary selection on their application for ballot, or in the case of the EPBs, when the Precinct Registrar inadvertently issues an application for ballot with an incorrect party preference. We learned shortly after the polls opened that in several instances, voters had been presented a primary election ballot they did not wish to cast.

I am aware of one voter who contacted this office about being presented an improper primary ballot. I am aware of one poll official who contacted this office about a voter being presented an improper primary ballot.

In the case of the voter who filed a complaint with our office, that voter claims to have ignored the primary ballot and only voted in general election contests before casting his ballot. No corrective action is possible in that instance. In the case of the poll worker who called, I personally drove to the poll to



provide additional training on EPB procedures. In these two instances, the two poll officials did not thoroughly review the application for ballot as issued with the voter.

My Commissioners have instructed me to take any corrective actions I deem appropriate relating to the deployment of the EPBs. I will share with them any information relating to this matter.

Mark, time is of the essence. We are already planning our training classes. A quick response from you would be greatly appreciated. The Commission meets September 4, and they are expecting a status report from me.

Sincerely,



Albert U. Tieche

AT/cm

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2012 AUG 23 PM 3:15
ELECTIONS