



**Pulaski County Election Commission
Meeting Minutes
December 14, 2020
5:00 p.m.**

Members Present:

Evelyn D. Gomez
Joshua A. Price
Kristi M. Stahr

Staff Present:

Shawn Camp
Betty Green
Amanda Dickens

Visitors Present: Jason Kennedy, Circuit County Clerk's Office; Adam Fogleman, County Attorney; Neal Earley, Arkansas Democrat Gazette; Jim Sorvillo, Candidate for House District 32; A. J. Kelly

The meeting was called to order at 5:00 p.m. by Chair Gomez. A quorum was present, with all commissioners present via Zoom.

The pledge of allegiance was led by Mr. Kennedy.

Approval of Previous Meeting Minutes

Chair Gomez requested amendments to the minutes for the November 13, 2020 meeting. The minutes for the November 13, 2020 meeting were not approved. Commissioner Stahr requested an amendment to the minutes for the November 18, 2020 meeting. Ms. Green was able to present the amended minutes for the November 18, 2020 meeting to the commissioners.

Commissioner Stahr moved to approve the minutes for the November 16, 2020 meeting as written; seconded by Commissioner Price. Motion passed by voice vote.

Commissioner Stahr moved to approve the minutes for the November 18, 2020 meeting as amended; seconded by Commissioner Price. Motion passed by voice vote.

Business

Provisional Ballot Hearing for the December 1, 2020 General Election Runoff

There were no voters present for the provisional ballot hearing for the December 1, 2020 General Election Runoff.

Certification of Provisional Ballots for the December 1, 2020 General Election Runoff

There were 326 provisional absentee ballots counted and 275 election day/early voting provisional ballots counted. There were two provisional ballot envelopes returned that were empty with a note on the envelope stating that the ballot was put into the machine by the voter. There was one Uniformed Overseas Citizens Absentee Voting Act ballot returned. There were 80 provisional absentee ballots that were considered curable if the voter provided their I.D. by noon on December 7, 2020; of which two voters provided their I.D., these two were counted. There were 121 unauthorized ballots that were not counted, 79 were early voting/election day provisional ballots and 42 were provisional absentee ballots. Commissioner Price moved to certify the provisional ballots for the December 1, 2020 General Election Runoff; seconded by Commissioner Stahr. Motion passed by voice vote.

Certification of Official Election Results for the December 1, 2020 General Election Runoff

Commissioner Price read the election results for the record. The results of the December 1, 2020 General Election Runoff are as follows:

North Little Rock Mayor	Tracy Steele	4,946	46.43%
North Little Rock Mayor	Terry Hartwick	5,707	53.57%
North Little Rock Ward 3	Ron Harris	955	60.91%
North Little Rock Ward 3	John Parker	613	39.09%
Little Rock School Zone 3	Tommy Branch Jr.	217	33.33%
Little Rock School Zone 3	Evelyn Hemphill	434	66.67%
Little Rock School Zone 6	Fransha Anderson	211	42.63%
Little Rock School Zone 6	Vicki Hatter	284	57.37%

Commissioner Stahr moved to certify the election results for the December 1, 2020 General Election Runoff; seconded by Commissioner Price. Motion passed by voice vote.

Other Business

Approval of the March 3, 2020 Preferential Primary/Nonpartisan General Election County Reimbursement

Commissioner Stahr moved to approve the county reimbursement in the amount of \$317,430.81 for the March 3, 2020 Preferential Primary/Nonpartisan General Election; seconded by Commissioner Price. Motion passed by voice vote.

Freedom of Information Act Requests (FOIA) or Subpoenas

The commissioners requested clarification as to whether Assistant Director Camp knew if Director Poe had addressed a FOIA/subpoena request regarding unsealing ballot boxes that pertained to the November 3, 2020 General Election. The commissioners stated that the boxes could not be unsealed without a court order. Assistant Director Camp was not sure if Director Poe had addressed this matter before he went on paternity leave. Assistant Director Camp deferred to County Attorney Adam Fogleman regarding this matter. Mr. Fogleman stated that the requestor had been responded to and that the claims commission stated that the boxes could be unsealed. Mr. Fogleman provided copies of the claims commission information to the commissioners.

The commissioners requested clarification regarding the process that will be utilized for unsealing the boxes. Assistant Director Camp shared that the boxes were unsealed earlier in the day by election officials and the process was live streamed. The commissioners requested clarification regarding which election officials were utilized. Assistant Director Camp provided them with a list of people that completed the process. The commissioners requested clarification as to why they were not notified that the boxes were being unsealed and whether the advice of the State Board of Election Commissioners was sought before completing this process. Assistant Director Camp stated that he was following the direction of his superior and the county attorney which was to complete the FOIA request.

Mr. Fogleman stated that he has spoken with the State Board of Election Commissioners in the past and cited A.C.A. § 7-5-702(c)(2) “Upon written instruction signed by the Director of State Board of Election Commissioners under § 7-4-121”. He stated that so long as the ballots are maintained in the custody and control of election officials, poll workers, sworn election officers then the boxes could be unsealed with the understanding that absentee ballots have possibly been comingled with the documents. Mr. Fogleman stated that he was not comfortable with the advice provided based up A.C.A. § 7-5-702(c)(1) which states “Directed to do so by some competent tribunal before which an election contest or prosecution is pending in which the ballots are to be used as evidence”.

The commissioners reiterated that the staff does not have the authority to appoint any election officials. Therefore, the staff did not have the authority to appoint anyone to unseal the boxes because the election in question was completed on November 18, 2020. The commissioners requested clarification as to whether any of the election officials that worked was someone that was decertified previously. Upon reviewing the list of election officials, Commissioner Stahr moved relatives cannot

supervise relatives or members of the same household in any official capacity; seconded by Commissioner Price. Motion passed by voice vote.

Threats Against the Commissioners

The commissioners requested a screenshot of a threat that was made against the commissioners in the previous meeting. Commissioner Stahr requested that any comments that are in the chat section of the YouTube feed be added to the minutes.

Request for Removal of Masks

Commissioner Stahr moved for the County Judge to allow masks to be removed during meetings if everyone is practicing social distancing; seconded by Commissioner Price. Motion passed by voice vote. Chair Gomez requested Assistant Director Camp to work with Commissioner Price regarding this request and to provide a response to the commissioners as soon as a response is provided by the County Judge.

Public Comments

Mr. Sorvillo stated that people listening to the meeting online are not able to clearly hear the commissioners speaking.

Mr. Sorvillo requested clarification as to whether the State Board of Election Commissioners sent the request in writing to open the ballots. The commissioners stated they had not seen it in writing. Chair Gomez offered him a copy of the list that they were provided. Commissioner Stahr and Mr. Fogleman stated that due to the addresses of the election officials on the list, that a copy could not be provided. However, as a FOIA request the names could be provided with the addresses redacted.

Mr. Sorvillo requested the opportunity to review the tapes for precinct 63. Mr. Sorvillo stated that he was told that his ballot style was not available at that precinct when the polls opened. Mr. Fogleman suggested that the matter should not be discussed because it is in litigation. Commissioner Stahr requested clarification regarding a memo that pertained to this matter dated September 18, 2020. Mrs. Dickens read a copy of the memo for the record. The commissioners requested that a copy of the memo be provided to them. The commissioners also requested clarification as to the number of voters might have been affected. Mrs. Dickens said the number was 46, but the county clerk's office was able to correct beforehand because it was at the beginning of absentee ballots going out. No voters were affected during early voting or election day.

Commissioner Stahr shared that she responded to a public comment on Twitter earlier in the day regarding 405 ballots that were mistakenly counted. She stated that her response was that the matter was under review and once it is completed it will be disclosed under full transparency.

Schedule of Upcoming Meetings

January 5, 2021 at 5:00 p.m. to complete unfinished business.

Meeting adjourned at 6:46 p.m.