

DRAFT
***FAYETTE COUNTY BOARD OF ELECTIONS
AND VOTER REGISTRATION***

ACTION OF AGENDA

January 15, 2016

Board Members Present: Marilyn Watts, Chairman
Darryl Hicks
Addison Lester (via conference call)

Staff Present: Tom Sawyer, Elections Supervisor

Others in Attendance: Dennis Davenport, County Attorney
Anne Lewis, Attorney Attorney with Strickland,
Brockington, Lewis LLP, Atlanta, GA
Aaron Wright, Fayette County Republican Party

A. CALL TO ORDER / OLD BUSINESS

Chairman Watts called the Special Called Board of Elections meeting on Friday, January 15, 2016 to order at approximately 4:00 p.m. Chairman Watts, Member Hicks and Member Lester (via conference call) were present. It was noted that Member Lester would not be eligible to vote on any agenda items.

Supervisor Sawyer presented the agenda to the Board members. Chairman Watts said there would not be any old business, so there were no felon or deceased voters prepared to be presented at this meeting.

B. NEW BUSINESS

**1. 2016 STATE ELECTIONS AND VOTER REGISTRATION
CALENDAR**

Supervisor Sawyer gave the Board members a copy of the 2016 State Elections and Voter Registration Calendar produced by the Secretary of State.

2. VOTING SCHEDULE – FAYETTE COUNTY – PRESIDENTIAL PREFERENCE PRIMARY

Supervisor Sawyer passed out a copy of the Voting Schedule for the Presidential Preference Primary for Fayette County to each Board member. He said March 1st is the day we kick off for that and February 8 is the date that early voting starts in the Elections Office. Beginning February 15 through February 29 early voting will be held at the Peachtree City Library and the Tyrone Town Hall.

Chairman Watts mentioned that the date of February 18 coincided with the same date that the parties were asked to qualify their candidates at this office. She said that would not work since early voting would be going on. The candidates would not want to come in this office as there would not be a place for them.

Supervisor Sawyer said that typically this would be handled at the office of each party. Chairman Watts spoke about the paperwork from those candidates qualifying being transmitted promptly so it can be posted on the Secretary of State's website.

At this point, Member Hicks spoke to Member Lester on the speaker phone to make sure he could hear everything well. Member Lester said he could hear well.

3. FAYETTE COUNTY 2016 – ELECTION DATES AND VOTER REGISTRATION DEADLINES

Supervisor Sawyer presented a copy of the 2016 election dates and voter registration deadlines for Fayette County.

4. APPOINTMENT OF DARRYL HICKS TO ANOTHER TERM ON THE FAYETTE COUNTY BOARD OF ELECTIONS AND VOTER REGISTRATION BOARD

Supervisor Sawyer passed out documentation regarding the re-appointment of Darryl Hicks to another term on the Fayette County Board of Elections and Voter Registration from the Fayette County Democratic Committee.

Attorney Dennis Davenport asked when this term begins. Supervisor Sawyer said it begins February 1, 2016. Mr. Davenport congratulated Member Hicks on this re-appointment. Chairman Watts said after this process is completed with the Secretary of State's office, he will need to be sworn in again.

Chairman Watts said that she would continue to serve until a decision is made regarding her appointment.

C. OTHER BUSINESS

At this point, Member Hicks made the motion to go into Executive Session; Chairman Watts seconded the motion. **Motion carried.**

1. EXECUTIVE SESSION

At this point the Executive Session began.

After the Executive Session ended, Member Hicks moved to go back into open session. Chairman Watts seconded. **Motion carried.**

D. OTHER ITEMS FOR CONSIDERATION

Member Lester asked if there were any public attendees at this meeting. Chairman Watts said no. She said those in attendance were herself, Member Hicks, Supervisor Sawyer, Anne Lewis, and Dennis Davenport.

Chairman Watts stated that the regularly scheduled Board of Elections meeting would still need to take place.

Chairman Watts said that there was discussion in Executive Session and asked if there was a motion. Attorney Dennis Davenport asked to give an update on the proposed final agreement with the NAACP litigation in which the Board of Elections and Tom Sawyer in his official capacity are parties to that litigation. He said the proposed final agreement would be to have Fayette County submit to the General Assembly a request to re-district the map so that there are four districts, which will elect a single member from each district. Only the people in that district would vote for that member. There would be fifth At-Large district, which would be county-wide, and everyone would vote for that member. In addition to the change in the map, the county defendants, being the Board of Commissioners, have agreed to pay \$125,000 for attorneys' fees, expenses, and costs that were incurred by the litigation by the plaintiff's counsel. In exchange for that, the plaintiffs are delivering executed individual releases for all the county defendants of which the Board of Elections and Tom Sawyer are part thereof. He said everyone agrees there was no admission of wrongdoing and this is solely to avoid the further burden of litigation and it's the result of a compromise and is not and shall never at any time or for any purpose be

construed as an admission of liability or wrongdoing by any of the County defendants.

Mr. Davenport said the final agreement also states that, consistent with the court's finding on its summary judgment order, the plaintiffs acknowledge there was no intentional racial discrimination in the county's use of and defense of its At-Large districting system. He said once the map is passed and once the \$125,000 in attorneys' fees are paid and the releases are received, then the plaintiffs and the County defendants will enter into a consent order dismissing this litigation with prejudice and that should terminate the litigation at that point.

Mr. Davenport asked if there were any questions about these terms and conditions.

Chairman Watts asked him to explain the difference in "with prejudice" and "without prejudice". Mr. Davenport said that "with prejudice" means that with the issues in the case have been formerly decided with respect to ... ie. he said there's no way they can bring that same claim back up again in its current state because that's the prejudice part. He said if it's without prejudice, they would just dismiss it for some procedural reason but they can refile if it's "with prejudice".

Mr. Davenport asked if there were any other questions. There were none.

Supervisor Sawyer said that he had checked with the Secretary of State's office to find out if it was possible to go ahead and begin redistricting. He said it would be only for our purposes and we would not finalize it until the legislature approves and then we just hit a button and it would go into full production at that point. He further said he will try to get extra copies of a more detailed map so candidates, as well as voters, can be sure in which district they reside. There was discussion about whether Supervisor Sawyer should get a more detailed map from the mapper here at the County or the State Reapportionment Office.

Anne Lewis said she thought that the County mapper could do it but we want to walk that fine line with the Legislature, that we're not presuming that they are going to pass it, although we are hoping that they will. She said we could probably get a map from Reapportionment but she assumes there is someone here at the County who could import the same map. She further cautioned that anyone who sees the map should **not** rely on this map until it passes.

Chairman Watts asked if this was the final order and was it public record and Ms. Lewis said yes it is. Chairman Watts said that potential candidates can look at this map if it is clear cut where they live but if they live in areas that are not definitive, we would need a better map. Anne Lewis agreed with that statement and said that she would talk with Gina in the Reapportionment office and see if it is possible to get a better map that goes down to the census block level and precinct level.

Supervisor Sawyer said that he wanted to be sure we have all those census blocks since there had been a missing block and Anne Lewis assured him this had been corrected.

Member Hicks said if we post any map we need to say that it's posted and a part of the settlement but not yet approved by the Legislature. Supervisor Sawyer said he is trying to get a map that would only be used by the Elections Office and would not be made public.

Mr. Davenport said having the map available for people to look at is one thing but making it publically available on the website might be more problematic. He said even though you say it's not official, people will not believe that and will assume it's the map. It was agreed that the map should not be posted on the website.

Anne Lewis said that neither the School Board's map nor the Board of Commissioners' map have passed yet. She said the judge has to sign the order that says there was a violation of Section 2 and then they can have the maps. She said she would find out from him when they are going to do that and then "you're going to have to post the School Board's map".

Chairman Watts asked if the At-Large Commission Seat could be the Chairman of the Commissioners now or in the future. Mr. Davenport said not now but it could be a possibility in the future. There was some discussion about the candidates qualifying and the urgency of getting this settled so the candidates can decide in which district they would need to qualify.

(At this point, Aaron Wright entered into the meeting.)

Chairman Watts asked if there was any final discussion regarding the settlement.

Member Hicks made the motion to approve the final settlement between the NAACP and the parties that are listed. Chairman Watts seconded that motion.

Member Lester said he had a comment or question regarding the Board of Education's approval of the map and the settlement and if the motion should include both of those. Anne Lewis responded that her understanding is that the Board of Education would vote on the map once the consent order is entered so it gives them a basis to do that. She said "in your case you are just voting on the final settlement agreement because only the Legislature can impose the map."

Member Hicks said that he wanted to go back and restate his motion. He then made the motion to approve the settlement agreement with the understanding that the Legislature approves the final map. Chairman Watts seconded that motion. There was no opposition. **Motion carried.**

Chairman Watts asked if there were any other items for consideration. Supervisor Sawyer updated the Board members about the upcoming March 1, 2016 election. Chairman Watts brought up the subject of consolidating the precincts and stated there is no way this could be done now. She thought this could be worked on this summer and be ready by the General Election in November. She said the map has to be approved and then tweaked by Reapportionment to try and make the precincts as compact as possible. Supervisor Sawyer said the plans are to have approximately 19 precincts from the current 36.

Chairman Watts brought up another issue with 2 elementary schools that are used as precincts and the Board of Education has asked that these schools be eliminated because it is felt there is some danger possibly using these 2 schools. She spoke further about consolidating some of the precincts in Peachtree City. She further said nothing has been said about the high schools that are being used as precincts. Chairman Watts said she thought the problem was outsiders coming in and waving signs and other activities in the parking areas outside of the precincts which can be intimidating to people.

Supervisor Sawyer said he will be contacting Sheriff Barry Babb to get him to attend the next Board of Elections meeting to speak about his plans for security. He further said he would like to have the School Superintendent come and speak about any concerns he has about the schools. Chairman Watts said she thought this meeting was taking the place of the regularly scheduled January meeting. She mentioned this might create a conflict with the Board Members. Member Hicks said it would be a conflict on his schedule.

Chairman Watts asked if there were any other comments or items for consideration. There were none.

E. ADJOURNMENT

Chairman Watts announced the meeting would be adjourned at approximately 4:35 p.m.