

DAVIDSON COUNTY ELECTION COMMISSION

November 3, 2018

The Davidson County Election Commission meeting was called to order at 2 p.m. on Saturday, November 3 by Chairman Jim Delanis. Commissioners Neil, Starling and Reynolds were also in attendance. Commissioner Herzfeld was not present. Commissioner Reynolds agreed to serve as acting secretary.

Commissioner DeLanis convened the meeting.

The commission considered its first agenda item to reset the date of the certification of the November 6 election. Commissioner Herzfeld is unable to attend on the date originally set of Friday, November 16. In addition, election commission staff has indicated that with a number of certified write-in candidates and the possibility of a significant number of provisional ballots, it would be advisable to give the staff more time to complete their work prior to certification. State law requires that the election be certified no later than the third Monday following an election.

After discussion, Commissioner Starling made a motion for the commission to meet on Monday November 26 at 3 p.m. to certify the election. He further stated that if the staff completes it work sooner than expected, that the commission meet on Tuesday, November 20 at 10 a.m. to certify the election, provided notice of the meeting could be given by Friday, November 16.

The motion was seconded by Commissioner Neil and was approved by unanimously.

Chairman Delanis then moved to the second agenda time, retention of co-counsel, and opened the floor to discussion. Commissioner Starling asked Chairman Delanis to provide context for the issue.

Chairman Delanis noted that given the importance of the election, which is hotly contested with record turnout, that it would not be unusual for a lawsuit or lawsuits to be filed. He suggested that the commission consider the possibility of hiring outside counsel to assist Metro Legal with any potential lawsuits.

Chairman Delanis said that Metro Legal has given the commission its approval to hire a co-counsel, and noted that in his experience, a team approach may be better. The chairman recommended Melvin Malone at Butler Snow for the Commission's consideration.

A lengthy discussion ensued.

Following the discussion, Commissioner Neil made a motion for the chairman or the AOE to talk with Metro Legal Director Cooper to discuss potential scenarios and to seek information about available resources. In addition, Commissioner Neil proposed in the motion that Melvin Malone and Butler Snow be requested to provide a draft engagement letter, including the firm's rates.

Commissioner Starling seconded the motion. The motion passed. Chairman Delanis opposed the motion.

Chairman Delanis then made a motion to authorize the Commission to retain co-counsel for threatened litigation and other related issues and for the AOE and other employees to assist co-counsel to begin to prepare information. The motion also included his recommendation for Melvin Malone to serve as co-counsel.

The motion failed for lack of a second.

With no further business to come before the commission, Commissioner Starling moved to adjourn. The motion was seconded by Chairman Delanis, and approved unanimously. The commission adjourned at approximately 3:15 p.m.

Emily Reynolds, (Acting Secretary)