

DeKalb County Board of Registration and Elections

Special Called Meeting Minutes

June 3, 2022

*via zoom platform

Start Time: 5:00 p.m.

End Time: 7:24 p.m.

Board Attendees: Chair Dele Lowman Smith
Vice-Chair Nancy Jester
Anthony Lewis
Susan Motter
Karli Swift

Other Attendees: Keisha Smith, Executive Director
Terry Phillips, Deputy County Attorney
Shelley Momo, Senior Assistant County Attorney
Irene Vander Els, Assistant County Attorney
Tristen Waite, Assistant County Attorney

APPROVAL OF AGENDA

Chair Lowman Smith called the meeting to order at 5:00 p.m. Ms. Austin read the roll by calling each board member by name. All members were in attendance.

Motion by Ms. Swift and seconded by Vice-Chair Jester to approve the agenda. The motion carried by a unanimous vote.

PUBLIC COMMENTS

Ms. Austin read the rules for public comment:

Public comments of two minutes or less may be made live via the teleconference. For those joining the meeting by telephone, please be aware that your phone number may be displayed to the public viewing or participating in the online meeting. Citizens who attend the meeting via the Zoom link above may join the public comment queue by raising their hand in the Zoom application, while citizens who attend the meeting via telephone may join the comment queue by pressing # followed by 2. There will be no comment cards, so when you are called upon, please state your name for the record. Also, please be conscious of speaking time so that everyone has an opportunity to provide input in the allotted time. Abusive, profane, or derogatory language will not be permitted.

The following citizens provided public comment:

- Marci McCarthy
- Garland Favorito
- Jenine Milum
- Diane Adoma
- Susana Sandoval
- Don Broussard

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- Andrew Bell
- Stephen Binney
- Lance Hammonds
- Marshall Orson
- Marilyn Marks
- Jeanne Seaver

ITEMS FOR DECISION

A) Certification of the May 24, 2022 General Primary and Nonpartisan General Election

Motion by Ms. Motter and seconded by Ms. Swift to certify the results.

Director Smith made a statement. A technical error in the Commission District 2 race was quickly discovered after the May 24 election. The first course of action had been to take a comprehensive look at the cause of the error and determine the proper course forward to ensure each vote cast was reflected correctly. She acknowledged that the resulting hand tabulation had changed the outcome of the race from that reported in the initial machine count. However, she assured everyone concerned that the ballots had been accurately tabulated. She described the methods used to perform the hand count and verify its accuracy, as well as the accuracy of the remaining races.

Ms. Motter regretted the unfortunate situation for everyone involved, made more difficult by SB 202, which required certification to be done a week earlier than previously. She had spent a great deal of time in the office over the last week and had spoken with Michael Barnes from the Center for Election Services. She stated that she was satisfied with the hand count of the District 2 Primary and the machine tabulation of the other races.

Going forward, she assured the public that the Board would continue its efforts to enhance procedures, both in the Department and at the State.

Ms. Swift commented that she, too, had been frustrated by this complex situation that the County did not create. It was imperative to look forward to the runoff in order to allow the candidates to prepare. She asked Director Smith to elaborate on the audits performed.

Director Smith responded that spot checks of the ballot images had been performed, confirming that the image of the ballot itself matched the results recorded by the scanner. The sample size was enough to guarantee a 98% chance of catching a 2% error in any of the checked races. The county Finance Department had also audited the batch sheets from the hand count. The final tally reflected 99.7% of the known votes.

Vice-Chair Jester asked if the vote totals were consistent between the various counts. Director Smith responded that it was necessary to be careful in adding up the totals due to the complexity of the election, but that the vote totals were consistent.

The Vice-Chair asked for the status of an Open Records Request for the ballot images. The Director responded that the ballot images had been downloaded and would be sent next week.

The Vice-Chair requested the results of the Logic and Accuracy tests. She commented that the State's L&A requirements may not be sufficient and recommended more robust testing on a voluntary basis.

The Vice-Chair asked Mr. Phillips to confirm that a request from a candidate for a recount of the Commission District 3 Primary had been denied by the court. He replied that it had.

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The Vice-Chair asked if anything in the audit had indicated problems in any of the other races. The Director responded that it had not.

The Vice-Chair asked for confirmation that if new information did arise, it would be possible to recertify the primary. Mr. Phillips confirmed it. The Vice-Chair also pointed out that there could be criminal ramifications if the Board refused to certify an election.

The Vice-Chair asked about the ballots used to test the machines prior to the attempted machine recount. The Director responded that the test decks conformed to SEB regulations.

The Vice-Chair asked for a copy of the ballot software logs from each machine.

The Vice-Chair praised the Board and the Department for its handling of the situation and stated that she was optimistic about the hand count. She still had questions about the processes and controls involved in elections throughout the state and promised to remain involved in pursuing improvements and, if necessary, recertification.

Mr. Lewis asked if the machines with District 2 errors had counted the votes correctly in the other races. Director Smith responded that they had. Mr. Lewis requested to see the audit data supporting that conclusion.

Mr. Lewis asked how additional recounts would affect the Department logistically. The Director responded that the resources required for the hand count had been significant. It would be difficult to continue in that way while also preparing for the runoff.

Mr. Lewis asked if it would be possible to retest the machines themselves in public. The Director responded that it would.

Mr. Lewis stated that he wished he could have seen the audit paperwork before the meeting and requested that it be publicized.

Chair Lowman Smith thanked Director Smith for the information she had provided. She restated for the record that the irregularities were related to programming changes made to the Commission District 2 Democratic Primary. Follow-up reviews had given the Department confidence that the errors were confined to that race. The reviews were part of the staff's standard procedure and did not need to be noticed.

She also commented on the compressed timeline faced by the staff brought on by SB 202. The extra days allowed by the delay in certification had allowed the staff to perform many of the checks they had performed. She emphasized that a margin of error could be expected in any hand count and that the District 2 count had fallen well within that target. She regretted that inaccurate numbers had been circulated by members of the public that had given some the opposite impression.

She also acknowledged that staff was very limited. The Department wanted to be responsive to requests from the public, but there were very few available who could. She also drew attention to SB 202's requirement that the State create a pilot program for sharing ballot images, which unfortunately is not available yet, leading to difficulty in fulfilling requests for thousands of ballot images.

Ms. Swift asked when the pending Open Records Requests could be fulfilled. Mr. Phillips responded that initial contact would be made within three days, but the time to produce documents would depend on the complexity of the request.

Ms. Swift asked if the Board had ever voted to recertify an election. Chair Lowman Smith responded it had.

Ms. Swift attempted to clarify for the public that there had not been a large change in the number of ballots counted between the initial machine count and the hand count. The number of ballots cast remained consistent within the expected margin of error. The votes had changed because the votes in the first count were known to be incorrect. There was no indication of fraud. She promised to continue working to ensure accurate results.

Vice-Chair Jester requested to see the correspondence sent to the citizens requesting ballot images. She also asked about the difference between the preliminary and final hand counts. The Director responded that the final hand count included corrections to the preliminary count.

Motion by Ms. Motter to amend the existing motion to certify the primary but also deny all requested recounts received by 5 p.m. today. The motion was seconded by Ms. Swift.

The Vice-Chair asked a series of questions about the recount requests. Mr. Phillips responded that there had been too large a number to list at that moment. Some requests had come from candidates and some from other sources. The rule states that the Board could grant a recount from a candidate or political party but was not required to do so.

The motion to certify the Primary Election carried by a vote of 4-1, with Mr. Lewis voting Nay.

B) Advance Voting Locations for the June 21, 2022 Runoff

Director Smith provided an update on the advance voting sites. Bessie Branham had withdrawn from the election. The new list of sites was as follows:

- Dunwoody Library
- North DeKalb Senior Center
- Briarwood Recreation Center
- Tucker Library
- Emory University
- Memorial Drive (Two sites)
- Berean Christian Church
- South DeKalb Mall
- Stonecrest Library

She also requested to change the dates to June 13 – June 17. The later date was necessary because the delay in certifying the candidates for the runoff would lead to a delay in testing the equipment for early voting.

Ms. Swift asked if the office would conduct additional testing with the additional time. The Director responded that the additional time was required to finish the normal testing.

Motion by Ms. Motter to approve the proposed changes to locations and dates for advance voting. The motion was seconded by Vice-Chair Jester. The motion carried unanimously.

ITEMS FOR DISCUSSION

A) Emergency Polling Place Changes

The Director alerted the Board that the locations for the Clarkston Community Center, Coan Recreation Center, and Tucker precincts had dropped out of the election and would need to be changed as soon as replacements could be found. The voters affected would be notified.

Chair Lowman Smith asked about the precinct cards. The Director responded that the cards had arrived and would be mailed as soon as possible.

BOARD COMMENTS

Ms. Swift commented that the situation was one that no one wanted to be in. She was frustrated by circumstances that had arisen outside of the Department's control but needed to be thoughtful about the need to continue forward to the runoff. She was satisfied with the reconciliation of the hand count and the ballot image checks of the machine count. She promised to continue working to make sure the situation did not arise again. She thanked the community for their fair questions but asked them to keep in mind that every member of the Board was working on their behalf. She thanked the Director, the staff, and the Board.

Mr. Lewis thanked the staff. He said that no matter who he spoke to, they were always forthright and candid with him. He trusted their integrity and their knowledge of election law. He also thanked the volunteer poll watchers and ballot adjudication and duplication teams. Finally, he thanked the candidates who had raised awareness of issues that needed to be corrected.

He commented that this was one of the first times in Georgia that the boundaries of election law had needed to be pushed in order to ensure an accurate result, and he assured the public that everyone involved would continue to investigate the questions that had been raised. He wanted the public to know that there were people working on their behalf and who would continue to listen to them.

Ms. Motter described the efforts over the last several days as extraordinary and herculean. She praised Director Smith's handling of the situation, as well as the staff, the temporary workers, and all the others involved. She also thanked the members of the Vote Review Panel.

She wanted the public to know that the Board understood that there were issues and that they would work to have procedures in place to correct them.

She thanked the attorneys for their advice, integrity, and patience. She also thanked Chair Lowman Smith for her leadership.

Vice-Chair Jester wanted the public to know that if any further information arose other than what had been certified today, the Board would follow up on it. She demanded more robust Logic and Accuracy testing and improvements to the notifications.

She was very interested in the ballot development process and hoped to be able to communicate more granular information about it to the public in the future.

She thanked the candidates for their courage in putting their name on the ballot.

Chair Lowman Smith thanked the staff, poll workers, partners, and volunteers who had done incredible work on pulling off the election. The Board's philosophy was to consider the community as their partners. She thanked community members who had brought issues to the Department's attention and promised to continue to work to administer elections with integrity, accuracy, and excellence.

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She asked the public to be thoughtful about the information put out as fact. There was a great deal of information based on incorrect numbers or interpretations of numbers. She urged members of the public to reach out to the staff with questions or concerns to make sure there was clarity.

ADJOURNMENT

Motion by Vice Chair Jester and seconded by Mr. Lewis to adjourn the meeting. The motion carried by a unanimous vote. The meeting was adjourned at 7:24 p.m.