

DeKalb County Board of Registration and Elections

Special Called Meeting Minutes

August 31, 2023
Start Time: 4:23 p.m.
End Time: 6:52 p.m.

Board Attendees: Chair Karli Swift
Vice-Chair Vasu Abhiraman via Zoom platform
Nancy Jester via Zoom platform
Anthony Lewis
Susan Motter

Other Attendees: Keisha Smith, Executive Director
Julietta Henry, Deputy Director
Bennett Bryan, Senior Assistant County Attorney
Shelley Momo, Senior Assistant County Attorney
Tristen Waite, Assistant County Attorney

APPROVAL OF AGENDA

Chair Swift called the voter challenge special called meeting to order at 4:23 p.m. Ms. Austin read the roll by calling each board member by name. All the members were present.

Motion by Chair Swift, seconded by Ms. Motter, to approve the agenda. The motion carried unanimously.

PUBLIC COMMENTS

Ms. Austin read the rules for public comment:

Public comments may be made in person or submitted by sending an email of one printed page or less at a minimum font of 12 to electionspubliccmnt@dekalbcountyga.gov which must be received between 35 and 5 minutes before the scheduled start of the meeting. The body of your email must include your first and last name. Abusive, profane, or derogatory language will not be permitted. By submitting an email for public comment, you agree to have your name and the email broadcast on the UStream and entered into the record and minutes. The DeKalb Board of Registration and Elections reserves the right, at the DeKalb Board of Registration and Elections' sole discretion, to (1) add your email to the record/minutes without reading any of it into the broadcast or (2) read all or a portion of your email into the record/minutes.

The following citizens provided public comment:

- Elizabeth Shackelford
- Stephanie Ali
- Paula Anderson
- Susan McWethy
- Libby Howze
- Pam Woodley

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- Taylor Spicer
- Janet Grant
- Haqiqa Bolling
- Julie Adams
- Robin Shahar
- Naomi Bock
- Judy Sophianopoulos
- Joy Wasson
- Liz Throop
- Bill Henderson
- Brandi Wyche
- Brittany Burns
- Bethann Frillman
- Kristin Nabers
- Adelle Frank
- Beth Levine
- Miriam Pullock via email
- Melissa Faye Manrow via email

ITEMS FOR DISCUSSION

A) Director's Report

Director Smith stated that on August 9, 2023, a voter challenge request was received by Ms. Gail Lee. She stated that an email was received that included a New York Post article reporting the death of the oldest living person in America, a challenge letter, and a spreadsheet that listed 159 electors. The following day on August 10, 2023, Director Smith received a new email from Ms. Lee that included an amended replacement challenge adding an additional 150 electors to the challenge voter list. Director Smith stated that in this hearing she will provide an overview of the findings.

Motion by Mr. Lewis, seconded by Ms. Motter to open the challenge voter hearing. The motion carried unanimously.

Ms. Swift stated that the challenge would be presented as a whole and opened the floor to Ms. Gail Lee to present her challenge.

Ms. Lee started by stating she submitted 159 electors to challenge on August 9, 2023 and further stated that of that number, 75 electors were resolved and only 84 electors remained. Ms. Lee referenced the New York Post article that highlighted the oldest living American who died at the age of 115 in January 2023. She stated that if the article was correct, then the 82 individuals with a date of birth of January 1, 1900, or 1901 would be deceased and therefore should be removed from the voter roll. Ms. Lee advised that she conducted an online background sampling, and the birth dates on record are inaccurate. Then she quoted O.C.G.A. § 21-2-221.2 (c). Ms. Lee concluded by stating that a missing item of identification for applicant requires rejection of the registration application and the name is not to be added to the voter roll.

Director Smith provided an overview of the staff's research on the challenges. She stated that 159 total electors were challenged, of which 85 letters were mailed to challenged voters; and of the 85 letters, 55 had also received no contact letters from the SOS. She further stated that of the 74 electors not listed,

42 had been resolved by staff; 9 were registered in other counties; 22 were registered twice and had since been merged; and one received a non-citizenship letter. She went on to state that one voter called to have their voter registration canceled; one called to inform the office that they relocated to another county; one voter called to be removed due to relocating out of state; and 2 letters came back to the VRE office as returned to sender by the post office.

Chair Swift opened the floor for discussion.

Ms. Jester thanked Ms. Lee for her diligence and stated that if anyone does not like the process, then the correct place for that is the state legislature. She also thanked Director Smith.

Vice-Chair Abhiraman asked Ms. Lee if she had any evidence that any of the electors challenged submitted false information. Ms. Lee replied that she did not.

Ms. Motter asked a series of questions. In response, Ms. Lee stated that she prepared the list by pulling the SOS voter rolls on July 20, 2023. She further stated that she did not know any of the challenged voters personally and had not tried to contact them. She went on to answer that she did not recall the number of challenges she's brought forward and that she was not being compensated for bringing challenges to the board.

Ms. Motter addressed State Election Board (SEB) member Dr. Johnston who was in attendance and requested that the SEB provide detailed guidance related to the voter challenge process.

Mr. Lewis stated that the people presenting voter challenges are following state law and that no citizen bringing anything to the board should be attacked for following Georgia law.

Chair Swift asked Ms. Lee to walk through her process of identifying electors to challenge. Ms. Lee stated that she sorted the voter rolls by birthdate. Chair Swift went on to ask a series of questions. Ms. Lee replied by stating that she had a team of 5 individuals who were DeKalb residents. Chair Swift proceeded to read some of the names on the challenge list and said that some of the names did not sound like names of people born in 1901. She asked Ms. Lee if she googled any of the names, and Ms. Lee replied that she did not. Discussion ensued around how birthdates could be incorrect and included reasons such as data entry errors and system glitches.

Ms. Jester commented that she was proud of Ms. Lee's work. She stated that in the past there did not seem to be much concern about registrations that displayed post office boxes. She went on to state that the responsibility of ensuring accurate voter registration data falls on the voters and the office. She further stated that if a registered voter's information is incorrect, they should be removed and they can re-register.

Vice-Chair Abhiraman noted that this challenge is about birthdates and that a district court judge recently blocked the portion of SB202 that requires voters to provide their dates of birth on the outer envelopes of absentee ballots. He also said that a challenge based on clerical errors doesn't have much probative value under 229 to remove a voter from the rolls.

Chair Swift asked Ms. Lee if she had proof that the individuals listed provided false information when they registered. Ms. Lee replied that she had no proof that they submitted false information.

Mr. Lewis asked Director Smith if there was a common cause for the voters who were resolved by the staff. Director Smith invited VRE's Deputy Director, Ms. Henry, to answer that question as she oversaw the process. Ms. Henry advised that the majority of the 42 that were resolved were resolved by the staff conducting research and finding the actual birthdates. Mr. Lewis also commented on the timeframe that

a challenged voter has to receive the notice and appear for the challenge and that it is a really short timeline. He also asked about the 4 voters who recently voted and confirmed with Ms. Henry that none of the other voters ever voted in DeKalb County.

Ms. Motter asked Director Smith to confirm that the department has procedures for dealing with registrations with missing information, and Director Smith replied affirmatively. Ms. Motter asked Director Smith if it is true that the department follows the procedures in their day-to-day work, and Director Smith replied affirmatively. Ms. Motter asked Director Smith if she occasionally reviewed the procedures to make upgrades and improvements, and Director Smith replied affirmatively. Ms. Motter asked Director Smith if VRE has a process for documenting updates, deficiencies, and corrections to the procedures, and Director Smith replied affirmatively. Ms. Motter asked Director Smith if there is a process in place where the registration data is swept from time to time, Director Smith replied yes and noted that DeKalb County is the 4th largest county in the state with over a half million voters, so each sweep is of thousands of voters at a time.

Chair Swift commented that she has not heard any evidence from the challenger that any of the individuals on the list submitted false information which is the basis of the challenge. She also reiterated that the challenger has the burden of proof. Chair Swift thanked Ms. Lee for bringing the challenge to the board.

Motion to approve and sustain the challenge by Ms. Jester, seconded by Mr. Lewis.

Mr. Lewis requested a discussion and went on to state that in his 7 years of serving on the board, they had not always decided on the challenges immediately. He further stated that he would like there to be a little bit more time for the people on the list to respond so he would like to table the decision on this challenge.

Chair Swift stated that she was not sure if that was legally allowed and deferred the question to the attorneys. Ms. Momo confirmed that it is not legally required to make a decision today, but stated as a point of order that there was currently a motion pending. Discussion ensued around the intent of the voter challenge law and where the burden of proof lies.

Mr. Lewis offered a substitute motion to table the vote on the challenge to allow more time for information to come in from the challenged voters. Seconded by Ms. Jester. The motion failed 3-2. The failed motion brought forth the original motion to approve and sustain the challenge. The motion failed 3-2.

BOARD COMMENTS

Ms. Jester thanked the board for allowing her to participate remotely. She stated that without robust rules, no challenge presented to this board would be sustained or approved. She further reiterated her desire for the state to develop rules for boards to follow on how to adjudicate voter challenges. She thanked Ms. Lee again for her diligent work to improve the voting rolls in DeKalb County.

Vice-Chair Abhiraman thanked the board, the department, and everyone on the state and county level who works on the list maintenance process. He highlighted that the process is about providing proof that the voter should not be on the voter roll. He went on to state that the challenge process is not an efficient way to go about resolving issues in the list maintenance process.

Ms. Motter asked for help from the public in reaching out to the general assembly for legislation to clarify the voter challenge process in the absence of specific legislation. She stated that she agreed that

the issue was serious and stressed the importance of process improvement. She went on to reiterate that there are processes in place to ensure the best registration data.

Mr. Lewis asked the state to help us out with legislation on voter challenges. He specified his concern for individuals who may need to have their identity protected and the fact that guidance is needed in those instances. He said that previously, the board used to receive voter challenges at nearly every meeting and that he appreciates the challenge process and that it takes courage to bring them forth.

Chair Swift thanked Ms. Lee for her challenge and reiterated that the basis of today's challenge was registrants providing false information and that no evidence had been provided to prove that. She further stated that one difference in challenges presented in prior years is that the new law allows any voter to challenge multiple voters. She stated that she takes these seriously and bases her decision on the facts presented. Chair Swift thanked the department for their hard work on these. She also thanked the public for their attendance at the meeting.

ADJOURNMENT

Motion to adjourn by Ms. Motter and seconded by Mr. Lewis. The motion carried unanimously. The meeting was adjourned at 6:52 p.m.