

OFFICIAL MINUTES  
STATE BOARD OF ELECTIONS  
SEPTEMBER 29, 2010

Chairman Leake convened the meeting with all members present at approximately 9:30 am. The Chairman reminded everyone to be mindful of the need to recuse themselves to avoid a conflict of interest or even the appearance of a conflict.

**Approval of Minutes**

Robert Cordle moved approval of the minutes for August 24, September 1 and 2, 2010, meetings. The motion was seconded by Charles Winfree and adopted by unanimous vote.

**Consideration of Administrative Penalty, Rusty Carter**

David Long, attorney, representing Rusty Carter, appeared before the Board to advise that Mr. Carter will pay the \$100,000 civil penalty as negotiated with the State Board. Chairman Leake moved to accept the payment of the \$100,000 civil penalty from Rusty Carter. The motion was seconded by Mr. Cordle and adopted by unanimous vote.

**Stephen LaRoque Alleged Campaign Finance Violations**

Anita Earls recused herself from consideration of this matter due to having represented Defendant Intervenors

Mr. LaRoque waived the 15 day notice.

Kim Strach, Deputy Director, provided a synopsis of the alleged violations of loaning \$25,000 and \$28,000 to his campaign from the S-Corporation, LaRoque Management Group, Inc.

Mr. LaRoque provided further explanation as to why he believed he was eligible to loan this money to his campaign.

Following questions from the board, Mr. Winfree moved to direct the LaRoque campaign to amend its reports and provide documentation to reflect the \$25,000 loan, the \$28,000 loan that refinanced the first loan with additional funds of \$3,000 to the campaign and to pay a penalty of \$1,000. Mr. Cordle seconded the motion which was adopted by unanimous vote.

**Pamlico County Issues**

Chairman Leake identified the parties involved in the disagreement in attendance: Judy Smith, George Smith, David Cox and Judge James E. Ragan. He further clarified this meeting is more in the manner of a preliminary hearing for the Board to consider the matters coming out of Pamlico County Board of Elections with increasing frequency. Chairman Leake added that it is not the general practice of the State Board of Elections to deal with local squabbles or to teach manners.

Judy Smith, Republican member, Pamlico County Board of Elections addressed the Board explaining her complaint of harassment and intimidation against David Cox. She asked the State Board of Elections to remove Mr. Cox from the Pamlico County Board of Elections.

David Cox, Chairman, Democratic member, Pamlico County Board of Elections, addressed the Board in response to Ms. Smith's accusations. He clarified he has a blog where he makes his thoughts public. Mr.

Cox responded to Chairman Leake's inquiry about the volume of speech a precinct official should use in the execution of his duties when a voter presents to vote on Election Day. Chairman Leake stated he believed the definition of the word "may" in 8 NCAC 10B.0103(b) would be that the election official act in reasonable fashion and in reasonable voice so the observer in reasonable positioning with reasonable hearing would be able to hear.

Mr. Cox provided clarification, in response to William Peaslee's question, that he believed proper or sufficient notice had always been given for county boards of elections meetings.

Judge James E. Ragan provided information that Mrs. Smith had begun from the meeting March 23, 2010, as a Pamlico County Board of Elections member, to undermine the work of the county board of elections by bringing "witnesses" alleging voter fraud from the 2008 election. He related that her actions did not allow for due process and the creation of a DVD placed into the public domain focusing on voter assistance further damages the elections process and may discourage voter participation in Pamlico County.

Mrs. Smith provided information that the DVD was produced by the NCGOP to ensure that elections were fair and honest.

George Smith addressed the Board stating his belief that Mr. Cox had on multiple occasions violated the elections laws and requested that the State Board investigate Mr. Cox's actions.

Anita Earls moved to request to view the above referenced DVD to determine if the material is compliant with NC election law. The Chairman and the Board agreed to accept the voluntary submission of the requested materials without a formal motion.

The Board encouraged the members of the Pamlico County Board of Elections to determine to work together in the execution of their duties as members of the county board of elections.

Chairman Leake moved to dismiss all complaints. The motion was seconded by Charles Winfree and adopted by unanimous vote.

#### **Instant Runoff Voting (IRV) Update**

Gary Bartlett, Executive Director, presented information developed through the research and testing performed at the State Board's directive to use the ballot audit log at the last meeting.

Following discussion among the Board, the Chairman moved that the Board's actions related to counting of the ballots in the IRV round, if needed, be in compliance with the law and use the RTAL for a hand to eye count to determine the election results. The motion was seconded by Mr. Cordle.

Vote: Yes     Leake, Cordle  
      No     Earls, Winfree, Peaslee

Motion failed.

Mr. Winfree moved that staff proceed in the employment of the staff created process for the tabulation of votes for round two of IRV, continue the testing of the software, that we retain the RTAL paper record as backup in the event problems occur and that we continue to pursue confirmation by Dr. Steve Berger

and Dr. Mladen Vouk, NC State University, of the staff developed algorithm and include an independent random sampling of precincts counted by hand to eye. The motion was seconded by Ms. Earls.

Vote: Yes Winfree, Earls  
No Cordle, Leake, Peaslee

Motion failed.

Mr. Peaslee moved to reconsider original motion by Chairman Leake. The motion was seconded by Mr. Cordle and adopted by unanimous vote.

The original motion was adopted by unanimous vote.

**Appointment to County Boards of Elections**

Upon motion by Mr. Peaslee, seconded by Mr. Cordle, the Board unanimously appointed Robert Jason Crumpton (R) to the unexpired term of Timothy B. Joines, Wilkes County Board of Elections.

Chairman Leake moved at approximately 12:30 pm to go to closed session, following a brief lunch break, to discuss personnel issues, seconded by Mr. Winfree and adopted by unanimous vote.

At approximately 4:30 pm Mr. Peaslee moved to return to public session and adjourn, seconded by Mr. Cordle and adopted by unanimous vote.