

Buncombe County Board of Elections
Asheville/Buncombe County Board of Elections

Monitor Name: Elaine and George Elam and Cheryl Williams in person

Date & Time: May 17, 2024 3:30 PM

Names of Board Members Attending:

Jake Quinn, Chairman

Mary Ann Braine, Board Member

Steven Aceto, Board Member

Glen Shults, Secretary

Sally Stein: Board Member

Names of Buncombe Co Staff Attending: Corrine Duncan, Director; Devin Whitney, Elections Technical Specialist; Justin Tate, Absentee Coordinator; Anna Katherine Moore, Administrative Coordinator and Clerk to the Board; Bria Bailey, Elections Technical Specialist; Neggy Fox, Deputy Director. County Staff Kassi Day, Public Relations Coordinator

Location of Meeting: 59 Woodfin Place, Asheville NC

Observers:

7 observers as follows: 1 Republicans, 3 Democrat, 1 Unknown, and 3 LWVAB. Three online.

Agenda Items

I. Agenda for this meeting approved 5/0

II. Minutes (G.S. § 143-318.10) – for the May 13 and May 14 meetings approved 5/0.

III. Office Updates – Corrine Duncan, Director

- Have successfully completed the second primary election
- Board Members and staff were able to leave the warehouse a little before 10:00 pm
- Preparations for the Canvass are going well
- A master garden plant sale will be held in the parking lot over the weekend
- The “I voted” sticker contest has launched with staff doing a little more than they did in the past
 - Check the Board of Elections and Buncombe County websites for details
 - Staff prepared a lesson plan for teachers who would like to engage their classes
 - Staff has a template for contestants to use
 - WLOS carried a story and interviewed Ms. Duncan about it the day after the election
 - Open to any Buncombe resident 18 years old or younger

- They can submit multiple entries
- Deadline is July 12
- A committee will narrow the entrants and select a winner in August
- Yesterday Ms. Fox and Ms. Duncan met with the Upper Hominy Fire Department Board.
 - Went well, very positive
 - Their biggest concern was campaigning and they have one door that doesn't lock
 - They wanted to discuss the matter privately
 - Earlier today they emailed to say the Board could use the site provided there was no campaigning, although candidates could post signs on the Department of Highways right of way.
 - Ms. Duncan said it was their right to ask for that, but she wondered whether choosing both fire departments (Bee Tree and Upper Hominy) might make sense
 - Ms. Stein asked whether the Bee Tree Fire Department had asked for no campaigning. Ms. Duncan said no, they had not
 - Summer calendar review to harmonize schedules
 - Monday, May 20, is the sample audit at 10 am. Board members are not required to attend. It is open to the public
 - Two of the larger turnout precincts were chosen for the audit but it should be quick
 - Thursday, May 23 at 5:30 is the pre-canvass meeting which will have the review of absentee and 11 provisional ballots. Because the ballots were the same across the county there is no need for duplicating, so that meeting should also be quick.
 - Mr. Quinn said the State Board press release said there were 9 provisional ballots. Ms. Duncan said that when they were storing supplies, they found two additional provisional ballots that poll workers had put in the wrong place
 - Canvass is 11:00 am on Friday, May 24

III-a – continued discussion of the Early Voting locations

Mr. Quinn summarized that we can use Upper Hominy Fire Department but candidates and the parties cannot campaign; we can use the Bee Tree Fire Department where candidates and parties can campaign. He invited comments from his colleagues. Most members and Ms. Duncan consulted their copies of elections laws.

- Mr. Aceto cited 163-166.4 which states that the County Board of Elections shall designate a buffer zone around the entrance of the polling location where campaigning is prohibited and a site adjacent to the buffer zone where campaigning can take place
- Further, the State Board of Elections may, under certain circumstances, agree to enter into an agreement with the owners or managers of a nonpublic building to use the building as a voting place on the condition that

election-related activity as described in subsection(b) of this section not be permitted on their property adjacent to the buffer zone

- Ms. Duncan asked whether the section applies to Early Voting sites or for Election Day sites. Mr. Aceto said it does not specify
 - However, subsection e says it does not apply to Early Voting sites
- Mr. Shults asked whether that would apply to Upper Hominy Fire Department. Mr. Quinn said no because it is a public building
- Ms. Stein asked whether the state had any additional guidance covering an agreement with a public building that does not want to allow campaigning and said she is uneasy about accepting the offer with no campaigning allowed, in part because it sets a precedent and because campaigning is such a critical part of elections
- Ms. Duncan said that in subsection e, it says that the section about obtaining State Board approval does not apply to “one-stop” (early voting) sites
- Mr. Shults asked whether the statute requires public buildings, such as Upper Hominy Fire Department, to allow for an area adjacent for the polling for electioneering
- Ms. Stein asked to hear the qualification from Upper Harmony Fire Department and members seemed to agree that signs does not mean people and that people might create problems for the life-saving mission of the fire and rescue staff
 - Mr. Quinn said that in the past they have used Reynolds Village with no campaigning, so some people may look to the past decisions as guidance
 - Mr. Shults said it seems we are prohibited by statute from agreeing to the condition that Upper Hominy Fire Department has asked for
 - Mr. Quinn said that this may not change the Early Voting plan but it will better inform decisions going forward and that he appreciates the discussion
 - Mr. Aceto noted that the statute does not say the Board has to provide a space around the entire buffer zone just so long as there is some space for campaigning and wondered whether Upper Hominy has offered any space at all
 - Mr. Quinn said the site maps the staff prepared for consideration of the March 5 Early Voting plan would be helpful to the sites to review for identifying a possible campaigning site nearby
 - Ms. Duncan said she would ask for clarification
 - Mr. Quinn said this Board could use the maps to identify spaces but that in past the Board has never designated sites. For example, he felt the campaigners may feel “penned” into any space the Board designates. The statute seems to envision free access to voters but other concerns, such as safety, can make it difficult to find a middle ground. The mission of campaigners has nothing to do with the mission of the Board in conducting an election
 - Mr. Aceto said that Mr. Quinn noted we had created expectations with decisions in the past but we need to apply the statute without adding to it.

The question is how to move forward and referred to the helpfulness of the maps developed by staff in giving clear direction. Then the sites we are considering can weigh in and if they are not flexible on this, we must go elsewhere because we have a duty to adhere to the law. We'd present these maps to Upper Hominy Fire Department, Reynolds Village and the North Asheville Library. This is a best practice going forward

- Mr. Quinn also noted that the Chief Judge doesn't have time to monitor the areas that we designate but we will need an extra person at each site to enforce these areas and not every poll worker has the right skill set for this.
 - We need to engage the parties and other stakeholders about this change in our direction to help ensure that folks go into this with their eyes wide open.
- Ms. Stein said that enforcement is important but does not need to be decided today
- Mr. Aceto said the bottom line is that we will have to make up our own minds about the lack of campaigning at Reynolds Village or go back to the North Asheville library, but does the statute require us to make a tweak to the plan
 - Mr. Quinn said that the need to go back to Reynolds Village is to let them know the Board should have done things differently in March when it agreed to no campaigning
 - Mr. Shults said there may be locations in Reynold Village that would allow a campaigning area nearby
 - Ms. Braine said the arguments are going to occur from the parties regardless of what we decide, but we need to avoid having the sites dictate to us what we do
- Mr. Quinn asked Ms. Duncan how things looked to her. She thanked the Board for doing its job and was surprised that this provision had not been seen in the past.
 - During the discussion she texted Mr. Paul Cox, the State Board's lead attorney, about the issue. He replied that campaigning areas are NOT discretionary and the Board must have them
 - She sees two options: 1) go with Jupiter Fire Department and the North Asheville Library or 2) work with Upper Hominy Fire Department and Reynolds Village, but the "real" deadline is next Tuesday, May 21 with no option for additional time
- Mr. Aceto thanked Mr. Quinn for bringing up the need to have discussions for stakeholders but wondered when those should take place. Mr. Quinn said not until Upper Hominy FD and Reynolds get back to us
 - Mr. Aceto asked whether this would be within the purview of our new Campaign Coordinator, although he has not been in the post long enough to be given this task
 - Mr. Quinn said he hoped that in the future parties and campaign staff would attend these meetings to be a part of the discussion

- Ms. Stein asked Ms. Duncan about the feasibility of staff to accomplish everything that needs to be done between now and next Tuesday
 - Ms. Duncan said that the County has a lot of Early Voting sites and has a good plan. Upper Hominy and Reynolds Village have greater capacity than most sites and November will be a very big election. Smaller sites, like the North Asheville Library, lead to long lines and crowding that creates upset for voters. Consequently, the benefits of having more capacity argues for taking the time to work with them
 - Some of the complications are that the property management firm for Reynolds Village is out of state and with Upper Hominy you need to talk to the entire Board
 - So, if we assume that the deadline to submit our approved plan is midnight May 21, we might make it
- So, the plan would need to amend the Reynolds Village site but otherwise the plan is fine.
 - Mr. Quinn and Mr. Aceto expressed their gratitude for the discussion and the work of the staff which lead to an atmosphere of continuous improvement
 - Ms. Duncan said it would be good to include the maps with the plan
- The motion is to authorize staff to approach the managers of Upper Hominy and Reynolds Village to inform them of the Board's statutory requirement to provide campaigning space and to request their accommodation. If they are not able to accommodate then the Board would select alternate sites
 - Passed 5/0

IV. Board Challenges – Devin Whitney

Mr. Whitney submitted the documentation to deny the application for a mail in ballot and to start a challenge to the mail- in absentee ballot (died before election day).

- Mr. Quinn said the requirement is that you be alive at least some time on Election Day, not the full day
- All Members reviewed the documentation
- The motion to disapprove the application passed 5/0
- The motion to challenge the ballot passed 5/0

V. Exception Form Review – Justin Tate

Mr. Tate presented the Board with Photo ID exception forms for mail in ballots that will be reviewed at the pre-Canvass meeting. The reason to present them now is in case staff need to reach out to the voters who will then have the opportunity complete them

- Four of them are from an assisted living facility
- In the past, if the person has written the number of the exception rather than checking the box, staff have accepted it
- Any decision to reject a Photo ID exception form must be unanimous

- Mr. Shults consulted Numbered Memo 2021-03 Absentee Container-Return Envelope Deficiencies page 7 and related footnote state that if the person checks the box that they have a reasonable impediment and includes the last four digits of their Social Security Number their form cannot be found deficient solely because they did not check the box that corresponds to their impediment
- Motion to accept the 7 Absentee Photo ID exception forms approved 5/0

VI. Board Summer Calendar

Members discussed their meeting schedule for June and July which do not have much election activity aside from candidate filings for Board of Education and some Municipal Elections

- No need to meet in June since the Early Voting Plan
- July 9 at 3:30pm
- August 13 at 3:30, shortly after the State Board training August 4-6
- Consult the Board Calendar dated April 18, 2024

VI. Next Meetings: Monday, May 20 at 10:00 am – for Sample Audit
Tuesday, May 21 at 3:30

Location: 59 Woodfin Place