

THE OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

SPECIAL-CALLED STATE ELECTION BOARD MEETING (TELECONFERENCE)

SLOPPY FLOYD BUILDING
WEST TOWER 8th FLOOR
ROOM 810
ATLANTA, GEORGIA 30334

MONDAY OCTOBER 20, 2014
10:00 A.M.

PRESIDING OFFICER:

BRIAN KEMP
SECRETARY OF STATE
STATE OF GEORGIA

LATASHA D. BETHEL, CCR
HAPPY FACES COURT REPORTING
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APPEARANCES:

Brian P. Kemp, Chairperson, State Election Board

Tex McIver, Vice Chairperson, State Election Board (by telephone)

David J. Worley, Member, State Election Board (by telephone)

Chris Harvey, Chief Investigator, Secretary of State's Office

Ryan Germany, General Counsel, Secretary of State's Office

Russell Willard, Senior Assistant, Attorney General's Office

TRANSCRIPT LEGEND

-- -- (Dash) Interruption in speech

Quoted material is typed as spoken

P-R-O-C-E-E-D-I-N-G-S

SECRETARY KEMP: We'll go ahead and get started. Mr. Simpson and Ms. Sullivan are unable to be with us, but we do have a quorum, so let me go ahead and call the October 20th special-called State Election Board meeting to order.

Our first order of business is our invocation and our Pledge of Allegiance, and I will lead us in that if y'all will pray with me.

INVOCATION

PLEDGE OF ALLEGIANCE

SECRETARY KEMP: Our next order of business which we normally don't have public comment at special-called meetings, but we do have that on our agenda, so I am going to allow that today since we did post it this way. I believe we have one person that wanted to make two minutes of public comment.

Laura Bordeaux.

MS. BORDEAUX: Yes, sir.

SECRETARY KEMP: Yes. Good morning. If you will just have a seat, and if you don't mind, if you will just speak very clearly and give your name and address for the record so we can have that.

MS. BORDEAUX: Yeah, my name is Laura Bordeaux, and I reside at 783 Clement Drive Atlanta, 30306.

SECRETARY KEMP: Okay, go ahead.

MS. BORDEAUX: Well, since I haven't heard anything yet of what this meeting is going to be about, I'm reserving comments about the content because I haven't been updated in a while. It's hard to get information, but I do want to say to you, sir, that I spent thirty minutes on hold trying to get a hold of your office this morning to make sure that this meeting was still taking place, same time, same place. Could not find it on the website. Called three times, one time just for the heck of it, I put it on speaker phone and listened to the music for thirty minutes. That is not acceptable, and I am sure you are going to agree with that. That a citizen should be able to reach your office? Yes? No?

SECRETARY KEMP: This is your public comment, ma'am.

MS. BORDEAUX: Okay, well, that is my comment. Thank you, very much.

SECRETARY KEMP: Thank you for being here. All right. Did anybody else want to address something during the public comment period?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, we will move on to the business of the special-called meeting, our rule variance request. I'm going to ask Mr. Germany to come up and give us the latest. I understand we may have had a few little changes even this morning.

MR. GERMANY: Yes, sir. Thank you, Mr. Secretary.

So the purpose of this rule variance -- it was a variance requested by Third Sector Development that the Board will -- subpoena that the Board issued. Third Sector Development's legal counsel has requested a variance from SEB rule 183-1-6-.02(9)(c). That is the rule that requires them to destroy archival copies of voter registration forms within ninety days after receipt. They request the variance because their counsel would like to keep a copy of what they send to the Board in production pursuant to the subpoena, and from my perspective, I think that is a fair request. I think it makes sense that they should be allowed to keep a copy of what they send us and frankly, I think it will assist in ensuring compliance with the subpoena and also in the related investigation.

The Board should have a copy of the latest order. I have been in discussion with Third Sector Development's counsel to hammer out any edits, and I know she is here if she wants to weigh in on any of this.

The order granting the variance allows Third Sector Development's counsel to keep a copy of the voter registration applications that they send to the Secretary of State in compliance with the subpoena for the purpose of ensuring compliance with the subpoena and also for the purpose of the State Election Board investigation. At the end of the investigation the Secretary of State the State Election Board Chair will notify the Third Sector Development that the investigation is complete, and Third Sector Development will then certify that the copies have been destroyed pursuant to the rules and I have the order in front of me. I have made one slight change to it in the third from the -- the fourth from the bottom paragraph where it says, It is so ordered that Third Sector Development, Inc. shall have a variance from State Elections Board Rule 183-1-6-.02(9)(c) by and through its legal counsel, and I added for the purpose of its legal counsel for the purpose of representing Third Sector Development in connection with the State Election Board investigation.

MR. MCIVER: Could you repeat that, please.

MR. GERMANY: Yes, sir. The paragraph says, It is so ordered that Third Sector Development shall have a variance from State Election Board Rule 183-1-6-.02(9)(c), by and through its legal counsel, for the purpose of representing Third Sector Development in connection with the State Election Board investigation, and that was an addition that was made at the request of Third Sector Development's counsel.

SECRETARY KEMP: That is not on this one you gave me, right?

MR. GERMANY: Correct. I just wrote that in.

SECRETARY KEMP: Okay. All right, did anybody have any questions for Mr. Germany regarding the last little change there?

MR. MCIVER: No. I have one in the next paragraph, but I don't have on that one.

SECRETARY KEMP: All right, go ahead Mr. McIver.

MR. MCIVER: The third to last paragraph reads -- causes me to have a question. The beginning in the third line it says, Chairman of the State Elections Board, SEB case number such and such has closed. When is it that we actually consider a case closed? When it is brought back to us by the law department and we vote ultimately or when the investigation is done? I am unclear as to when it is that Sutherland Asbill & Brennan would need to take this action.

MR. GERMANY: I think it would be the former, Mr. McIver, when it is brought back -- when the case has closed, and I can put some language in reflecting that. What we are envisioning is that Sutherland will have until after -- you know once the State Election Board Chair notifies them that at this point the investigation is complete, that is when their clock starts and that would be in my view after the entire case is complete.

MR. WILLARD: Right. Mr. McIver, I think that would be when the Secretary of State investigative staff have come before and puts forth the consent agenda, the start of our (inaudible) cases presentation, and that the State Election Board determined that no violation had occurred and the case had been dismissed, if it went to a hearing after the hearing order had been adopted by the Board in this final order, or if there was a negotiated consent order in a case after that had been approved by the State Elections Board.

MR. MCIVER: Thank you. That clarifies my question.

SECRETARY KEMP: Did anybody else have any other questions about the amended order or the order that is before us?

(Whereupon, there was no response)

SECRETARY KEMP: All right. Did anybody else wish to address this matter?

(Whereupon, there was no response)

SECRETARY KEMP: All right, hearing none, I'll take a motion to approve as presented by Mr. Germany.

MR. MCIVER: I so move.

MR. WORLEY: Second.

SECRETARY KEMP: All right, Mr. McIver moves for approval. Mr. Worley seconds. Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, there were a chorus of ayes)

SECRETARY KEMP: All opposed; same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion has been approved unanimously with all three members voting aye. That is all we have on our agenda today. Do we have a motion to adjourn?

MR. MCIVER: I so move.

MR. WORLEY: And I will second.

SECRETARY KEMP: Mr. McIver moves. Mr. Worley seconds. Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, there were a chorus of ayes)

SECRETARY KEMP: All opposed; same sign.

(Whereupon, there was no response)

SECRETARY KEMP: And we have adjourned. Thank you, gentlemen.

(Proceedings concluded)

CERTIFICATE OF COURT REPORTER

STATE OF GEORGIA

COUNTY OF FULTON

I hereby certify that the foregoing meeting was reported as stated in the caption and the proceedings were reduced to writing by me; that the foregoing 6 pages represent a true, correct, and complete transcript of the proceedings given on October 20th, 2014.

I certify that I am not disqualified for a relationship of interest under O.C.G.A. 9-11-28(c); I am a Georgia Certified Court Reporter here as a representative of Happy Faces Court Reporting Firm; I was contacted by Happy Faces Court Reporting Firm to provide court reporting services for this proceeding; I will not be taking this proceeding under any contract that is prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C. of the Rules and Regulations of the Board; and by the attached disclosure form I confirm that Happy Faces Court Reporting Firm is not a party to a contract prohibited by O.C.G.A. 15-14-37 or Article 7.C. of the Rules and Regulations of the Board.

This 22nd day of October, 2014

A handwritten signature in black ink, appearing to read 'LaTasha D. Bethel', is written over a horizontal line.

LaTasha D. Bethel
Certified Court Reporter
Georgia Certificate #2660