

Henderson County Board of Elections
Minutes of Board Meeting
July 25, 2023

The Board of Elections met July 25, 2023, at 5:00 PM at the Henderson County Board of Elections office at 75 E. Central Street. Members present were Clay Eddleman, Temp Chair, Debbie Dante, Secretary, Linda Rebeck, William Cutler, and Sharon Pearson, Members, and Summer Heatherly, Director.

Pledge

Minutes: Minutes were approved for 7/18/23. Chair requested the minutes be sent to members prior to meeting.

Agenda: Linda moved to approve the agenda. Bill 2nd. Passed unanimously.

Old Business: None.

New Business:

a) County Attorney. Russ Burrell reviewed procedures with the Board to follow when hiring a Director per NCGS 163-35, (see attached e-mail & statute). The Board was informed that they should send a letter to the County Commissioners recommending the proposed salary for the Director. He recommended enclosing the Director's Duties and approximate recommended salary increases 5 years and 10 years out. He would like this emailed to him by this coming Friday as he would like to get it placed on the consent agenda for the August 7, County Commission meeting.

b) Meeting Resolution. Mr. Burrell also presented a Resolution for the Board to approve listing the 7 statutory regular meetings of the Board (see attached). Linda moved to adopt the Resolution with the 7 regular meetings of the Board for 2024. Bill 2nd. Passed unanimously. Special meetings will be scheduled as needed.

c) Director Duties. Board reviewed and discussed additions/deletions of Director's Duties Resolution. Linda moved to approve Director's Duties Resolution as read. Sharon 2nd. Passed unanimously. Anticipated salary increases in 5 years & 10 years need to be discussed in a Closed Meeting which will be scheduled for 7/28 at 10am. Draft of Duties will be reviewed again at next meeting.

d) Discussion of Letter to Legislature. Bob Hall, a Democratic operative, has circulated a letter among members of the county boards of election requesting the Boards to send a letter to the Legislature in opposition to proposed bill numbers SB 747, SB 749 AND HB 772. Debbie cited NCGS 163-39, Limitation on Political Activities, and stated her opinion that it is not proper for members to publicly express an opinion on a

political issue. That is not to say a member may not personally contact a legislator to promote or oppose legislation. Bill proposed the Board read the County Board letters in opposition and the proposed legislation and then decide. Summer states the SBOE has not made a public statement pro or con regarding this legislation as they must be bipartisan. No motion made.

Director's Comments:

Summer states the Photo ID machine is ready to go live tomorrow.

She and Aaron will meet with Fletcher Town Council on August 7, 2023, to discuss moving the date of their Municipal Primary elections from October to March, as the October date interferes with the start of voting for the General election in Nov. She has spoken with Flat Rock Council and Hendersonville City Council to set up similar meetings.

There have been complaints on the user friendliness of our website and the staff will be working with the county ID department to revamp it.

Aaron was successful in procuring dedicated emails for the Board and they will be posted on the website.

The next meeting will be 7/28/23 at 10:00 AM and will be a Closed Meeting to discuss Director's future salary recommendations.

There being no further business, the meeting was adjourned at 6:59 PM.

Deborah Dante
Secretary

Approved Disapproved

Clay Eddles
Chairman

Approved Disapproved

Aaron Pearson
Member

Approved Disapproved

Walter Cuthbert
Member

Approved Disapproved

Erica Reburn
Member

Approved this the 28th day of July, 2023.

§ 163-35. Director of elections to county board of elections; appointment; compensation; duties; dismissal.

(a) In the event a vacancy occurs in the office of county director of elections in any of the county boards of elections in this State, the county board of elections shall submit the name of the person it recommends to fill the vacancy, in accordance with provisions specified in this section, to the Executive Director of the State Board of Elections who shall issue a letter of appointment. A person shall not serve as a director of elections if he:

- (1) Holds any elective public office;
- (2) Is a candidate for any office in a primary or election;
- (3) Holds any office in a political party or committee thereof;
- (4) Is a campaign chairman or finance chairman for any candidate for public office or serves on any campaign committee for any candidate;
- (5) Has been convicted of a felony in any court unless his rights of citizenship have been restored pursuant to the provisions of Chapter 13 of the General Statutes of North Carolina;
- (6) Has been removed at any time by the State Board of Elections following a public hearing; or
- (7) Is a member or a spouse, child, spouse of child, parent, sister, or brother of a member of the county board of elections by whom he would be employed.

(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination, unless good cause exists to decline the appointment. The Executive Director may delay the issuance of appointment for a reasonable time if necessary to obtain a criminal history records check sought under G.S. 143B-968. The Executive Director shall apply the standards provided in G.S. 163-27.2 in determining whether a nominee with a criminal history shall be selected. If the Executive Director determines a nominee shall not be selected and does not issue a letter of appointment, the decision of the Executive Director of the State Board shall be final unless the decision is, within 10 days from the official date on which it was made, deferred by the State Board. If the State Board defers the decision, then the State Board shall make a final decision on appointment of the director of elections and may direct the Executive Director to issue a letter of appointment. If an Executive Director issues a letter of appointment, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. The specified duties and responsibilities shall include adherence to the duties delegated to the county board of elections pursuant to G.S. 163-33. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections. In the event the Executive Director is recused due to an actual or apparent conflict of interest from rendering a decision under this section, the chair and vice-chair of the State Board shall designate a member of staff to fulfill those duties.

(c) Compensation of Directors of Elections. – Compensation paid to directors of elections in all counties maintaining full-time registration (five days per week) shall be in the form of a salary in an amount recommended by the county board of elections and approved by the Board of County Commissioners and shall be commensurate with the salary paid to directors in counties similarly situated and similar in population and number of registered voters.

The Board of County Commissioners in each county, whether or not the county maintains full-time or modified full-time registration, shall compensate the director of elections at a minimum rate of twelve dollars (\$12.00) per hour for hours worked in attendance to his or her duties as prescribed by law, including rules and regulations adopted by the State Board of

Elections. In addition, the county shall pay to the director an hourly wage of at least twelve dollars (\$12.00) per hour for all hours worked in excess of those prescribed in rules and regulations adopted by the State Board of Elections, when such additional hours have been approved by the county board of elections and such approval has been recorded in the official minutes of the county board of elections.

In addition to the compensation provided for herein, the director of elections to the county board of elections shall be granted the same vacation leave, sick leave, and petty leave as granted to all other county employees. It shall also be the responsibility of the Board of County Commissioners to appropriate sufficient funds to compensate a replacement for the director of elections when authorized leave is taken.

(d) Duties. – The director of elections may be empowered by the county board of elections to perform such administrative duties as might be assigned by the board and the chairman. In addition, the director of elections may be authorized by the chairman to execute the responsibilities devolving upon the chairman provided such authorization by any chairman shall in no way transfer the responsibility for compliance with the law. The chairman shall remain liable for proper execution of all matters specifically assigned to him by law.

The county board of elections shall have authority, by resolution adopted by majority vote, to delegate to its director of elections so much of the administrative detail of the election functions, duties, and work of the board, its officers and members, as is now, or may hereafter be vested in the board or its members as the county board of elections may see fit: Provided, that the board shall not delegate to a director of elections any of its quasi-judicial or policy-making duties and authority. Such a resolution shall require adherence to the duties delegated to the county board of elections pursuant to G.S. 163-33. Within the limitations imposed upon the director of elections by the resolution of the county board of elections the acts of a properly appointed director of elections shall be deemed to be the acts of the county board of elections, its officers and members.

(e) Training and Certification. – The State Board of Elections shall conduct a training program consisting of four weeks for each new county director of elections. The director shall complete that program. Each director appointed after May 1995 shall successfully complete a certification program as provided in G.S. 163-82.24(b) within three years after appointment or by January 1, 2003, whichever occurs later. (1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1971, c. 1166, s. 2; 1973, c. 859, s. 1; 1975, c. 211, ss. 1, 2; c. 713; 1977, c. 265, s. 21; c. 626, s. 1; c. 1129, s. 1; 1981, cc. 84, 221; 1983, c. 697; 1985, c. 763; 1991, c. 338, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 16; 1995, c. 243, s. 1; 1999-426, s. 7(a); 2001-319, ss. 1(a), 1(b), 11; 2004-203, s. 58; 2009-541, ss. 3, 4(a); 2017-6, s. 3; 2018-13, s. 1(e); 2018-146, s. 3.1(a), (b).)

Summer Heatherly

From: Russ Burrell
Sent: Friday, July 21, 2023 1:06 PM
To: Summer Heatherly
Subject: Sending: Draft resolution (00276096).docx
Attachments: Draft resolution (00276096).docx; GS_163-35.pdf

Good afternoon,

Thank you again for meeting with me today.

Attached you'll find:

1) A draft resolution setting up the regular meetings of the board of elections. It will change for dates every year, and it will add a meeting or two in even-numbered years. What I suggest is the Henderson County Board of Elections ("BoE") adopt this one (which means that once posted in the Clerk to the Board of Commissioner's office (Denisa Lauffer) and on your website, no further notice will be required for those meetings. (That said, I'd also mail a copy to the North Carolina Secretary of State's office, because while your office isn't a true state office, it is at least partly one.) Note that some of the times on that document (canvass for one) are set by law. Others are at a given time "or later". For the "or later" ones, what matters is that the time be specified in this resolution.

2) A copy of N.C. Gen. Stat. §153-35, on local directors. Most of what we talked about today came from there. You'll note:

A. The process for appointment:

- (1) Nomination by BoE.
- (2) It doesn't say this, but you can fairly read 'acceptance by nominee', since a nominee who won't accept doesn't do any good. And for a nominee to accept, they would need to know compensation.
- (3) Request by BoE (just a simple letter by Chair will do) for commissioners to set employment terms, and a recommendation.
- (4) Setting compensation by commissioners (this will be done almost certainly on the Board of Commissioners "consent agenda", where they approve bunch of items on their agenda at once without any discussion of individual items.
- (5) Appointment by State Director of Elections.

B. As for compensation, you'll note from (c) that the amount approved by the Board of Commissioners "shall be commensurate with the salary paid to directors in counties similarly situated and similar in population and number of registered voters". As for what I will call the "overtime" hours – the second half of the second paragraph of (c), I would suggest that the BoE suggest (1) an hourly rate, with (2) maximum hours until the next regular meeting of the BoE to be approved in advance by the BoE (this will only be difficult if there is long time between meetings, with overtime to begin in-between; you'll need to plan ahead for those, but, as you said, for the most part its knowable in advance when overtime will happen).

C. As for "duties", note that the statute is odd, in that the last half of the second paragraph of (c) talks about your hours of work in terms of "rules and regulations adopted by the State Board of Elections", but sub-section (d) says that the board sets your administrative duties. I certainly suggest they do so, since bills need to be paid, and they don't meet year-round. "Approval of routine bills and invoices owing to third party supplies of not more than \$XXXX in

any six-month period”, and “calculation of payroll for employees of the office” are the sorts of things I’d be thinking about, were I them.

D. Your special meetings notice (of which I received today) is fine.

In addition, I would suggest that the BoE’s minutes be modified to use terms like “nomination” instead of “appoint”, and “suggested compensation”, etc.. If terms that don’t fit the statute have already been approved, a motion to amend will work just fine.

I look forward to working with you.

Best regards,
Russ Burrell



Charles Russell Burrell
County Attorney

1 Historic Courthouse Square, Suite 5
Hendersonville, North Carolina 28792
(828) 697-4719

HENDERSON COUNTY BOARD OF ELECTIONS

AGENDA ITEM

Request: Adoption of resolution of schedule of meetings for Fiscal Year 2024

Date of meeting: July 25, 2023

Pursuant to N.C. Gen. Stat. §143-318.12, a schedule of dates, times and places of regular meetings of the Board must be publicly available as stated in that statute. The Board has the following “regular” meetings required by North Carolina law:

- Swearing in of new County Board of Elections members at noon on Tuesday after the third Monday in July of odd-numbered years
- Appointing Precinct Officials Tuesday following the third Monday in August of odd numbered years
- Absentee Meetings, beginning with the third Tuesday prior to an election, each Tuesday at 5:00 p.m. to approve or deny absentee ballots
- 5:00 p.m. or later the day before an election to approve or deny absentee ballots and tabulate absentee ballots
- 2:00 p.m. or later Election Day to begin counting absentee ballots
- Canvass

Other meetings are required as “special” meetings, for consideration of provisional ballots and absentee ballots timely received after election day.

The attached Resolution schedules the “regular” (that is, those whose dates can be known in advance) meetings of the Board for this fiscal year. Your adoption of the resolution is requested.

**Resolution of the
Henderson County Board of Elections**

WHEREAS, pursuant to the "Open Meetings" laws of North Carolina (Article 33C of Chapter 143 of the North Carolina General Statutes), this Board is required to make publicly available a schedule showing time and place of regular meetings of the Board; and,

WHEREAS, upon adoption of a resolution of the same, pursuant to N.C. Gen. Stat. §143-318.12(a)(2) this Board gives effective legal notice for such meetings by filing a copy of the resolution with the Clerk to the Board of Commissioners of Henderson County, and by posting a copy of the same on this Board's website.

NOW, THEREFORE, the Henderson County Board of Elections shall hold regular meetings as follows:

1. All meetings shall take place in the Henderson County Elections offices, located at 75 E. Central St., Hendersonville, North Carolina.

2. For the remainder of fiscal year 2024 (through and including June 30, 2024), regular meetings will take place on the following dates and times:

- August 22, 2023, at 5:00 o'clock p.m.
- February 13, 2024, at 5:00 o'clock p.m.
- February 20, 2024, at 5:00 o'clock p.m.
- February 27, 2024, at 5:00 o'clock p.m.
- March 4, 2024, at 5:00 o'clock p.m.
- March 5, 2024, at 2:00 o'clock p.m.
- March 15, 2024, at 11:00 o'clock a.m.

Approved this the 25th day of July, 2023.

HENDERSON COUNTY BOARD OF ELECTIONS

By: Clay Edlerman
Chair

Meeting Agenda

Location: Henderson County Board of Elections
75 E. Central St.
Hendersonville, NC 28792

Date: July 25, 2023

Time: 5:00 PM

Clay Eddleman (D) / Debbie Dante (S-R) / William Cutler (D) / Linda Rebuck (R) / Sharon Pearson(D)

Agenda details:

I. Call Meeting to Order

II. Pledge of Allegiance

III. Approval of Agenda

IV. Approval of Minutes

V. Old Business

VI. New Business

- a) County Attorney
- b) Meeting Resolution
- c) Director Duties
- d) Discussion of Letter to Legislation

VII. Directors Comments

VIII. Adjournment

Henderson County Board of Elections

Welcome Please Sign In

Date: 7/25/23

1. Paul ReBuck NCEIT
2. Pat" Rogers CWV
3. Jane Belletto NCEIT
4. Kathy Marney
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____