

June 14, 2022 Meeting Minutes

The meeting was called to order on June 14, 2022 at 5:00 p.m. at the Cumberland County Board of Elections board room by the Chair.

Present: Helen Nelson - Chair
Linda Devore - Member
James Baker - Member
Billy King - Member
Irene Grimes - Secretary

Staff: Angela Amaro, Vickie Hillburn

Guests: Shamika Bethea, Sharon Lee, Peter Apone, Bobby Swilley, Michael Morrison, Myron Pitts, Susan Chapman, Harlan Devore, Gail Mof..(illegible), Famor... (illegible), Meta Weaver-Coaxum, John Zimmerman, Benjamin Elliott, Elijah (illegible), Rudy Smith, Donna Davis, Susa Mills, Sally Shutt, Sonja Evans, Peter Pappas.

PUBLIC COMMENT: (each speaker has 3 minutes)

1. Shamika Bethea (1919 Wordsworth Drive, Fayetteville, NC 28304) speaks in favor of invocation. Recites scripture.
2. Michael Morrison (1045 Rim Road, Fayetteville, NC 28314) speaks in favor of invocation; thanks members Baker, Devore, King, Nelson for their vote in favor of invocation; addresses member Grimes separately says she is getting bad advice.
3. Bobby Swilley (1904 Nantucket Court, Fayetteville, NC 28036) speaks in favor of invocation; one group should not dictate to others what they can or cannot do.
4. Gail Morfesis (404 Valley Road, Fayetteville, NC 28305) speaks in favor of invocation; as the representatives of the people board members should listen to what the people want.
5. Andy Morfesis (404 Valley Road, Fayetteville, NC 28305) speaks in favor of invocation; prayer is a public health issue.

Chair Nelson explains that the issue of whether the Board will have an invocation has already been decided; today, the discussion will be how to be compliant with the law.

ACTION: Secretary Grimes moves that the Board approve the agenda.

Second: Member Baker

Vote: Passes (4/1; in favor: Grimes, Baker, King, Nelson; Opposed: Devore)

Member Devore suggests that the discussion of the invocation be moved up on the agenda, so that members of the public who are here just for that purpose are then free to leave. Secretary Grimes opposes as members of the public left the previous meeting immediately after the invocation discussion and did not remain for the actual business of the Board; elections.

ACTION: Member King moves to approve the minutes for May 10, May 17, May 26 and June 6, 2022.

Second: Member Grimes
Vote: Unanimous in favor

Interim Director Amaro proposes the following One Stop Plan for the July municipal election: Board of Elections office, July 7 - 23, Monday through Friday 8 a.m. - 5 p.m., and Saturday July 23, 2022 8 a.m. - 3 p.m.

ACTION: Member Devore moves to accept the recommendation of staff as it relates to the July One Stop Plan.

Second: Member Baker
Vote: Unanimous in favor

Interim Director Amaro proposes that the absentee meeting for June 21, 2022 be cancelled as she does not anticipate having any absentee ballots returned by that date. She indicates that the Board needs to set the time for the subsequent absentee meetings (beginning on June 28 and each Tuesday thereafter).

ACTION: Member Devore moves to set the time for absentee meetings at 5:00 p.m..

Second: Member Baker
Vote: Unanimous in favor

Interim Director Amaro reports that Manna Church has notified the Board that their facility may not be used for elections any longer. Their facility will be used for the July election as they have to give 150 days notice. Staff is optimistic that they will be able to find another venue for the November election.

Interim Director Amaro also report that she has received approval from finance to pay for the municipal election out of this year's budget.

Member Grimes reports that she has received phone calls that she believes are related to the invocation discussion; she describes the calls as "ugly" and states that that is inappropriate.

Chair Nelson gives the floor to Rick Moorefield (County Attorney) to provide advice as to the constitutionality of the proposed invocation policy.

Mr. Moorefield explains that the Board of Elections is not a county department and that the only relationship the Board has with the County Commissioners is that they fund legal expenses, occurring through the conduct of the Board's legal business. By statute the Cumberland County Board of Elections is obligated to follow guidance of the State Board of Elections. He is certain that the State Board has never provided any guidance in reference to a policy such as this (invocation). Adopting a written policy is a different kind of action and is outside of the scope of what you are charged with. Cautions against adopting a written invocation policy because as the County Attorney, his recommendation to the commissioners would be to not defend the Board in a lawsuit and the State may not either.

Attorney Moorefield states that there has been lengthy correspondence between Member Devore and Attorney Moorefield and that there is a difference of opinion as to case law. There is a case in the 4th circuit (where we are located) where a governmental agency had to pay approx. \$300,000.00 in attorneys fees. There is nothing wrong with doing an invocation, but he recommends not adopting a written policy. The only safe harbor is to pray to "God" and not invoke a specific deity ("Jesus"). There are not enough resources in the county to ensure an

reasonable amount of diversity. If you adopt a policy the Supreme Court says you have to have a mechanism in place to ensure diversity.

Chair Nelson asks County Attorney Moorefield if his recommendation is to continue with the practice and just not pray in the name of a deity (I.e. "Jesus").

Secretary Grimes said that she was surprised that after having been polite towards those that pray in public and stood and was silent during the prayer, when the moment of silence was instituted the tolerance was not extended to those that are comfortable with that practice.

Member Devore says that religious diversity can be obtained if members invite someone else to do the prayers in their stead.

Member Baker asks the County Attorney to specify if his recommendation is to not have a Christian prayer at all or to have a variety of prayers. Mr. Moorefield recommends that the Board finds "some sort of diversity".

Member Devore says that none of the case law requires a non sectarian prayer as long as there is an opportunity for diversity; and that Member Grimes has stated that she will provide some of that diversity. She spoke on behalf of agnostics when it was her turn for the invocation. Member Grimes interjects that she has not offered to provide invocation diversity.

County Attorney says that he is giving the Board what he thinks to be the safeguard and the Board can do what they chose. Member Baker inquires if the recommendation is that when it is his turn he does a Christian prayer and the next time he invites a Rabbi and the next time an Imam; Attorney Moorefield says that would work. Member Devore remarks that it is not required of each member to be diverse as long as the Board as a whole provides an opportunity for diversity. Mr. Moorefield says that the Board can not rely on only Mr. Baker to provide said diversity; and that he is giving the best advice in order to be safe from a legal challenge and to not put this in a written policy. Member Devore withdraws her motion to adopt her written resolution.

Chair Nelson confirms that no motion is needed (since there was a motion in the prior meeting) and that the staff will notify the designated Board Member three days in advance when it is their turn to offer the invocation.

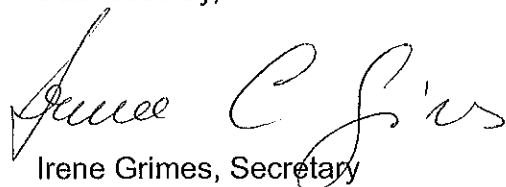
Adjournment

Motion: Member Grimes

Second: Member Baker

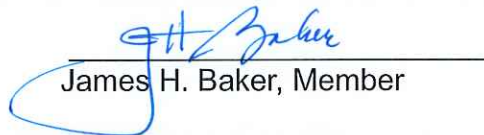
Chair Nelson adjourned the meeting at 5:58 p.m.

Submitted by,



Irene Grimes, Secretary


Helen Nelson, Chair


James H. Baker, Member


Linda Devore, Member


Billy King, Member