

# **Madison County Board of Elections**

## **Meeting Minutes – Special Session**

### **Protest Hearing**

#### **In the Matter of Election Protest of Cheri Beasley North Carolina Supreme Court Justice Seat 01 Contest**

**November 30, 2020**

The Madison County Board of Elections met on Monday, November 30, 2020 at Beech Glen Community Center Gymnasium, 2936 Beech Glen Road, Mars Hill, NC 28754. In attendance: Jerry Wallin, Chair; Ray Lewis, Secretary; Dyatt Smathers, Member; Sandra Tolley, Member; Brian Ball, Member; Kathy Ray, Director; Donny Laws, County Attorney; Laura Bridges, Verbatim Reporter; Allie Leake, Representative for Candidate Cheri Beasley; and Brian D. Gulden, Representative for Candidate Paul Newby.

#### **Call to Order:**

Chair Wallin called the meeting to order at 1:00 p.m. and introduced the Board members and attendees.

Chair Wallin established the purpose to hear the protest filed by Cheri Beasley pursuant to an Order and Notice of Hearing entered by the Madison County Board of Elections on November 21, 2020. He continued by establishing the procedure that the meeting would follow in allowing evidence, discussion, questions, and decisions in determining whether or not an irregularity or misconduct had occurred that would impact the election results.

Representative Allie Leake presented an affidavit and requested to move it into evidence that an election irregularity may have occurred with regard to two (2) Madison County provisional voters.

Representative Gulden objected to the introduction and acceptance of the affidavit of Oliver Ho in that Mr. Ho was not one of the two (2) provisional voters who has said there was an irregularity with their votes or their ballots.

Representative Leake provided information regarding the collection of data and contents of the affidavit and how two (2) Madison County provisional voters were identified accordingly. Discussion ensued regarding the provisional voters' counties of residence as stated on the provisional applications and provisional voting attempts in Madison County.

**Motion, Seconded (DS, RL) and Carried (5,0) to disallow Logan Gunn's provisional ballot based upon the fact that he provided a Henderson County residential address, he has been denied once by the Board, and there is no evidence being presented that there is anything inappropriate as admissible.**

Representative Leake provided information regarding the attempt made by Jaime Lionel Watkins to register and cast a vote in Madison County during the November 3, 2020 General election, and noted that Mr. Watkins did provide a Madison County residential address.

Representative Gulden objected that Mr. Watkins was not present to offer competent testimony and that second hand testimony read from a public document should be excluded from the Board's consideration.

In the case of Jaime Lionel Watkins, the Director provided sworn testimony that the research on his provisional application and ballot, guided by Numbered Memo 2018-05 and the provisional voter checklist, found no evidence that Jaime Lionel Watkins attempted to register to vote in Madison County prior to Election Day on November 3, 2020 thus the subsequent recommendation and denial of his provisional ballot. She informed those present that his provisional application on Election Day was considered a valid voter registration for future elections in Madison County.

Chair Smathers commented that Same Day Registration is not allowed on the day of election, and that his attempt to register and cast a vote on the day of the election was late, and no other evidence exists.

**Motion (DS) to disallow Jaime Lionel Watkins' provisional ballot based upon the fact that it was not appropriately timed.**

Representative Leake commented that the main objective of the protest was not intended to create votes but rather to ensure that the decisions of the Board have been well thought out. She finalized her comment by expressing appreciation to the Board for taking the time to hear the protest and explain its decisions.

**Seconded (BB) and Carried (5,0) to disallow Jaime Lionel Watkins' provisional ballot based upon the fact that it was not appropriately timed.**

County Attorney Laws charged the Board with the task of preparing a timely written decision that includes the finding of facts and conclusion of law. He clarified with the Board that it does not believe that the protestor has come forward with sufficient findings of fact that there have been any violations or irregularities or misconduct sufficient to cast doubt on the results of the election and that the Board is dismissing the protest accordingly. He inquired if the Board wanted him to prepare the order and allow the Chair to sign it.

Representative Gulden asked County Attorney Laws to affirm that the findings of fact he was referencing was related to General Statute 163-182.10(d)(2)c.

**Motion, Seconded (DS, RL) and Carried (5,0) to permit Chair Wallin to execute and sign the prepared order.**

**Motion, Seconded (DS, JW) and Carried (5,0) to adjourn at 1:46 p.m.**

Minutes Approved December 16, 2020.

Kathy Ray, Director