

**CLOSED SESSION MINUTES NUMBER 1, LENOIR COUNTY BOARD OF ELECTIONS, 1:47 P.M. ON 21 FEBRUARY 2013 AT ELECTION HEADQUARTERS, 110-C SOUTH HERRITAGE STREET, KINSTON, NC** (File: CSBOE21Feb2013)

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**LEGAL COUNSEL HAS ADVISED THE BOARD MEMBERS “THAT THE LAW IS THAT MINUTES FROM CLOSED SESSIONS ARE NOT MADE PUBLIC UNTIL THE ISSUE WHICH BRINGS THE MEETING INTO CLOSED SESSION IS RESOLVED. AS THIS PERSONNEL ISSUE IS RESOLVED, I BELIEVE IT WOULD BE APPROPRIATE TO FILE THE CLOSED SESSION MINUTES IN THE MINUTE BOOK NOW.”**

**Present:** Chairman Sharon L. Kanter, Secretary Oscar E. Herring, Board Member Kimberly B. Allison, and Elections Director Dana W. King

**Others in Attendance:** NCSBOE Executive Director Gary Bartlett

Mr. Bartlett asked the Board “*what do you want to discuss?*” Chairman Kanter responded “*We understand this meeting is to discuss Mrs. King’s Reply to the Petition, and we have a Response to that Reply.*” Then Herring responded that “*We understand that the purpose of this meeting—you were coming to this meeting to tell us to stop sending documents that will become public record and posted on the Internet.*” Mr. Bartlett responded that “*he came to listen to concerns from each party (Board and Mrs. King).*”

Mr. Bartlett asked the attendees if they wished to have separate meetings or all attendees in the same meeting. After asking Mrs. King what she preferred and Mrs. King responding that she wanted to “*hear what y’all have to say,*” the Chairman responded to Mr. Bartlett “*that all attendees be in the same meeting.*”

Board Chairman Mrs. Kanter stated that the Board had developed a Response to Mrs. King’s Reply, and gave a copy of the Board’s Response to the Reply to the Petition to Mr. Bartlett and to Mrs. King. Mr. Bartlett stated “*if I leave the room with the Response to the Reply to the Petition then it would become a public document.*” Herring responded “*that the Board did not want the Response to be a public record at this time.*” Chairman Kanter requested that the Response be returned to her and Mrs. King returned her copy to the Chairman when Mr. Bartlett handed Chairman Kanter his copy of the Response. Mrs. King stated that “*the Board members should read the Response to the attendees.*”

Executive Director stated “*he was ready to hear comments from the Board.*” The Board members read their jointly-complied Response.

**Reference paragraph 1 of Response:** Chairman Kanter requested clarification from Mr. Bartlett that neither the Board nor Mrs. King were to discuss the Petition with the Executive Director. Mr. Bartlett stated “*that his communications with Mrs. King were in response to procedural questions and not the actual Petition.*”

**Reference paragraph 3 of the Petition/Reply/Response:** Mrs. King stated that “*she did not use the word ‘gay’*” but stated “*she had received a call early in the day from the Chief Judge stating that the poll worker was leaving the polling place and talking with a friend outside the polls.*” Mrs. Bartlett

asked her ***“why she didn’t take immediate action to rectify the problem or at least notify the Board.”*** Mrs. King responded ***“that she was busy and neglected to take appropriate action.”***

**Reference paragraph 4 of the Reply/Response:** Chairman Kanter elaborated on the printer icons appearing on the computers and each attempt to reboot adding an additional printer icon.

**Reference paragraph 5 of Reply/Response:** The attendees discussed problems with the curbside bells and acknowledged that Mrs. King had contacted the vendor and was told the ***“warranty had expired”*** and then she dropped the ball. There is no documentation that Mrs. King addressed the problem. Mr. Bartlett asked ***“if there could be a poll worker performing multiple tasks that could be assigned to monitor the curbside voting.”*** Mrs. Kanter responded ***“we do not have that luxury.”*** Mr. Bartlett agreed ***“that few precincts in the state have enough poll workers to assign one worker exclusively to curbside voter lookout duty and that some kind of notification system needs to be implemented.”***

**Reference 10 of the Reply and paragraph 11 of the Response:** Mrs. King denied this allegation and said ***“that her Reply had the emails attached to show she had communication with this agency prior to returning to Kinston.”***

**Reference paragraph 11 of the Reply and paragraph 12 of the response:** Secretary Herring brought his composition book with the hand written notes used to prepare the minutes. His hand written notes state ***“90”*** days. Herring read his notes from the composition book and Mr. Bartlett requested that Secretary Herring read the notes again about the Fire Department. Secretary Herring honored his request.

**Reference paragraph 12.2, second paragraph of the Reply/Response:** Mrs. King stated that ***“she thought her probation should be over.”*** Chairman Kanter responded ***“that the current Board knew there would be changes to the Board’s composition in July and decided to let the new Board remove the probation, if appropriate.”***

**Reference 13.5, second paragraph of the Reply and paragraph 13.6 of the Response:** Secretary Herring challenged Mrs. King’s statement in her Reply that Mr. Bartlett did not make the phone call to Lenoir County about some voters being in the incorrect district. Mr. Bartlett stated ***“I made the phone call.”***

**Reference 13.5, second paragraph of Reply and paragraph of 13.7 of the Response:** Secretary Herring re-stated that he prepares a Memorandum for Record to document facts that do not occur in a meeting. As an example Herring placed a telephone call to Don Wright, SBOE General Counsel and requested guidance on how to word the motion for today’s session. Mr. Wright responded in email. Herring stated ***“that he would attach the email to the MFR”***. Mr. Bartlett stated ***“that he received a copy of the email from Mr. Wright.”***

**Reference 13.6 of the Reply and paragraph 13.8 of the Response:** Mrs. King stated that if she had to supervise everything that the staff did she might just as well do it herself. She considers it impossible to do that. Mr. Bartlett stated ***“there was a way to check, such as training the staff to check behind each other – checks and balances.”***

**Reference 13.8 of the Reply/Response:** Mr. Bartlett stated, ***“it was not unusual for them to have to order and receive paper on election day”***. However, ***“you should be prepared and have ordered prior to the election.”***

**Reference 13.9 of the of the Reply and paragraph 13.10 of the Response:** Mrs. King stated that "*she obtained verbal instructions on how to program the machines for the election*" and Mr. Bartlett asked her "*Who provided the instructions?*" and she stated that *SBOE personnel instructed her by telephone to place an X in the appropriate box on the voting machines.*"

**Reference 27 of the Petition/Reply:** Mrs. King accused the Board of holding secret meetings and Chairman Kanter challenged the accusation. Mrs. King responded "*you had to have a secret meeting to compose this Response.*" Chairman Kanter responded that "*she prepared the Response and sent it to the two other Board members to review and input.*" Mr. Bartlett stated that "*once the document was sent to the other two board members it is considered a meeting.*" However, he also stated, "*Board members can meet for informational purposes, such as the informal meeting with the County Manager, and for purposes of obtaining counsel, such as the meeting with County Attorney Griffin, and if no action is taken there is no issue in such instances of board members having a secret meeting.*"

Mr. Bartlett stated from the contents of the Response to the Reply to the Petition that there appears to be one primary area of concern: **Communications.**

At the conclusion of the Closed Session Mr. Bartlett informed the attendee that if they wished to submit additional material the deadline date is **12:00 noon on Monday, February 25, 2013.** He gave the attendees his cell phone number: **919-208-0241.**

On a motion by Oscar Herring, a second by Kimberly B. Allison and unanimous approval to end the closed session at 4:07 p.m. and to return to open session at 4:08 p.m.

These minutes were electronically approved by the board members on March 31, 2013.

**APPROVED:**

*Sharon L. Kanter*  
Chairman

*Kimberly B. Allison*  
Board Member

*Oscar E. Herring*  
Secretary