

DeKalb County Board of Registration and Elections

Meeting Minutes

October 25, 2023

Start Time: 10:03 a.m.

End Time: 11:27 a.m.

Board Attendees: Chair Karli Swift
Vice-Chair Vasu Abhiraman
Nancy Jester
Anthony Lewis
Susan Motter

Other Attendees: Julietta Henry, Deputy Director
Bennett Bryan, Senior Assistant County Attorney
Tristen Waite, Assistant County Attorney

APPROVAL OF AGENDA

Chair Swift called the Board of Voter Registration and Elections meeting to order at 10:03 a.m.

Motion by Ms. Jester, seconded by Mr. Lewis, to approve the agenda. The motion carried unanimously.

PUBLIC COMMENTS

Ms. Austin read the rules for public comment:

Public comments may be made in person or submitted by sending an email of one printed page or less at a minimum font of 12 to electionspubliccmnt@dekalbcountyga.gov which must be received between 35 and 5 minutes before the scheduled start of the meeting. The body of your email must include your first and last name. Abusive, profane, or derogatory language will not be permitted. By submitting an email for public comment, you agree to have your name and the email broadcast on the UStream and entered into the record and minutes. The DeKalb Board of Registration and Elections reserves the right, at the DeKalb Board of Registration and Elections' sole discretion, to (1) add your email to the record/minutes without reading any of it into the broadcast or (2) read all or a portion of your email into the record/minutes.

The following citizens provided public comment:

- Judy Sophianopoulos
- Jeremiah Lowther
- Helen McLaughlin
- Karen McCown
- Liz Throop

ITEMS FOR DECISION

A) Challenges Brought by Ms. Gail Lee

Ms. Lee challenged 15 voters on the voter roll published on August 14, 2023 that contains 246 listed with non-residential addresses. She stated that her goal was for the 15 challenged electors to be removed from the list, following the current election, if they do not provide corrected residential addresses, and for the remaining 231 registrants to be handled administratively in accordance with the Board's decisions and directives. She said that a challenge of voters with non-residential addresses was heard about a year and a half ago and was denied, and now there are more voters with non-residential addresses on the electors list. Ms. Lee referenced O.C.G.A. 21-2-216(a)(1) and (4), (f), O.C.G.A. 21-2-217(a)(1) which both elaborate on voter residency and registration. She attested that people cannot live in a post office, UPS store or in a mailbox and the same is most often true for commercial addresses, however, there are some exceptions. She further stated that someone can rent a mailbox or work in one county and reside in another which presents the opportunity for an elector to vote twice. Ms. Lee referenced O.C.G.A. 21-2-220(e) and O.C.G.A. 21-2-226(a), citing that is the duty of the County Board of Registrars to determine the eligibility of each person applying to register in such county.

Deputy Director Henry reported that Ms. Lee's challenge letter was received on Monday, October 2, 2023 and the Department of Voter Registration and Elections staff opened an investigation. As a result of the investigation, the department was able to update 2 records as a result of the elector responding to correspondence. Deputy Henry confirmed that 4 of the reported addresses were USPS facilities, 5 were UPS stores, and 4 were virtual or commercial mailboxes. The registration staff reported all these addresses to GARViS as commercial locations to prevent future electors from registering with these addresses. She also reported that 5 of the electors have never voted, 5 voted in 2022, one voted in 2021, one voted in 2016, one voted in 2012, one voted in 1996, and one elector voted in the current election after his registration was updated. Deputy Director Henry stated that if the challenge was upheld, VRE would follow the procedures as described in the adopted policy under O.C.G.A. 21-2-229.

Motion to accept and sustain the challenges for purposes of discussion by Ms. Jester and seconded by Mr. Lewis.

Chair Swift confirmed with Deputy Director Henry that 2 of the 15 voters have been resolved. Chair Swift asked Ms. Lee if the person that she personally knew was on the list of challenged voters. Ms. Lee replied that the voter was not in the challenge as they are deceased, but she confirmed that they have been removed from both voter rolls by DDS.

Ms. Jester motioned to amend the current motion to not include the 2 resolved voters in the Board's decision. The motion was seconded by Mr. Lewis.

Vice-Chair Abhiraman spoke to Ms. Lee's argument that having electors on the roll with commercial addresses creates the opportunity for them to vote twice. He asked Ms. Lee if her challenge includes evidence that any of the voters are registered multiple times, to which she replied that it did not but there is potential.

Ms. Motter asked Ms. Lee if she personally knew any of the voters on the list. Ms. Lee replied that she did not. Ms. Motter asked Ms. Lee if she had any interaction with anyone on the list. Ms. Lee replied that she had not, but she did have contact with people at the commercial addresses to confirm if anyone lived there.

Ms. Jester confirmed with Deputy Director Henry that since the addresses were updated in GARViS, no one will be able to register with those commercial addresses in the future. Ms. Jester said that there may be others who are currently registered at these newly flagged addresses and asked Deputy Director Henry if it was the department's intention to send all of those voters letters regarding their address. Deputy Director Henry confirmed that was correct. Ms. Jester asked for the Board to receive updates on the mailing of the letters and the resulting actions. Ms. Jester went through the challenge list individually to get clarification on the status of each voter. Ms. Jester asked what the process is if individuals registered to the flagged commercial addresses do not respond to the letters. Deputy Director Henry replied that she would get clarification and advise Ms. Jester at a later point.

One of the challenged voters, Mr. James Darnell McWhorter, was present at the meeting and was given the opportunity to testify. He thanked the board for giving him the opportunity to explain his situation. He stated that he previously had a felony and lost his right to vote. He stated that he did everything that he needed to do to restore his right to vote but he experienced homelessness. He said that he still had his employment and had to use the address to get a driver's license with the DMV, which he had to present to vote. Mr. McWhorter said that he has paid taxes in DeKalb County for 20 years, even during times of homelessness. He further stated that he teaches chess at Knollwood Elementary, volunteers at the VA on Clairmont Rd., and does his part to contribute to the community. He advised that he has since obtained a residential address and would update his registration with the VRE staff following the meeting.

Ms. Jester amended the motion to not include Mr. McWhorter in the challenge decision.

Mr. Lewis asked Ms. Lee to confirm if the addresses listed in her challenge had multiple voters per location. Ms. Lee responded that she just chose locations. Mr. Lewis asked if she visited all of the locations. Ms. Lee responded that either she did or someone from her team did. Mr. Lewis asked Deputy Director Henry to clarify the dates the electors last voted and for their original registration dates.

Ms. Motter thanked Mr. McWhorter for his attendance and expressed that his statement made her emotional. She expressed that these names just appear as data on a spreadsheet, but each is a real person with a real story. She also referenced the public comment made by Ms. Troop that people may not know how to properly identify their address. She suggested that our Deputy Director of Communication write basic Q&As on the DeKalb website on the registration process for voters who are homeless or in domestic abuse situations, and basic voter education.

Ms. Jester stated that her position is to be dispassionate about rules and laws so there is fairness and accuracy. She said that there is a responsibility to fix the inaccurate data on the voter rolls and posed the question of what liability does the department and the board have if state laws are not followed precisely. Ms. Jester said that she believes the challenges are working as designed as communication from the challenged voters is being received to update the electors list. She also noted that this challenge highlights jurisdictional concerns that she has as DeKalb County voters could be voting in the wrong races based on their commercial address and not their residential address. Ms. Jester also said that voters have an affirmative responsibility to follow the law.

Chair Swift stated for clarification that the law does not state that a voter cannot use a PO box, but they must be a resident of the county.

Vice-Chair Abhiraman thanked Mr. McWhorter for his presence and military service and stated that the difficulties he has experienced calls into question how we as a country are ensuring the health and safety of veterans and that there is a lot more that can be done. He expressed that it would be adding insult to injury to take Mr. McWhorter's right to vote away. Vice-Chair Abhiraman said that he appreciated Mr. McWhorter for providing such a compelling human face to what it means to be a challenged voter.

Ms. Motter stated that it is helpful for election administration to have the proper residential addresses so electors can vote in the correct races, but there are some voters that don't care about the local elections and only vote for president or governor. She said that she supports people to vote down the ballot for all races so having the residential address does serve aspect of election administration.

Ms. Jester restated her motion to accept and sustain the challenges brought by Ms. Lee with the exception of the 3 resolved voters.

The motion was voted on and failed 2-3. Ms. Jester and Mr. Lewis voted aye. Chair Swift, Vice-Chair Abhiraman, and Ms. Motter voted nay.

BOARD COMMENTS

Mr. Lewis thanked Mr. McWhorter for his presence and said that he appreciated hearing his story. He stated that the Board has heard these types of challenges for the past two years and there has always been speculation on why a voter would register with an alternative address and now they have an idea on why it happens. He also said that voters need to be educated about Vote Safe program and agreed that more information regarding registration options needs to be prominently placed on the DeKalb County website. Mr. Lewis thanked the staff for their work on the challenge, Deputy Director Henry for the level of detail she provided to the Board, and Ms. Lee for continuing her efforts.

Ms. Jester also thanked Mr. McWhorter for his service and said that she is personally invested in veteran affairs. She is happy to hear that the department is going forward with trying to identify these addresses and make sure that no one registers with them again. She further stated that this is the beginning of the proper education for a voter because now they can be helped if they try to register with a flagged address. Ms. Jester reiterated her concerns for the jurisdictional issues and stated that she hopes the department works effectively to resolve them. She also emphasized her concern regarding liability from a legal standpoint on knowingly keeping improperly registered voters on the roll. Ms. Jester said that she hopes everyone has a great voting experience and she looks forward to hearing about it at the next meeting.

Ms. Motter thanked the staff, Executive Director Smith, Deputy Director Henry, and all poll workers working the current election. She stated that there are additional reasons to vote even for those outside of municipalities including EHOST and SPOLST. She noted that Election Day is right around the corner and even though things are not as busy during municipal elections, the poll workers still show up and devote their entire day to their assigned precincts.

Vice-Chair Abhiraman stated that as a Board member hearing a challenge, he must apply the law. He said that he believes the burden of proof is on the challenger and that it is a high bar. He further stated that he believes the Board followed the law in not sustaining the challenge.

Chair Swift stated that every citizen in DeKalb County has the right to vote and that the burden of proof is on the challenger. She said that her concern from removing people from the roll is removing eligible voters. She said that what she has learned from the challenges is that it is very clear the department is doing their job and have been following the processes in place. She further stated that what these challenges seem to want to do is to remove voters outside of processes that have been put in place by the State of Georgia and the County. Chair Swift said that the department is in the midst of an election and she recognizes that every citizen has the right to challenge a voter. However, the staff is working hard and the challenges are taking time away from administering the election. She also noted that if the Board had voted to sustain the challenge as presented, 3 eligible voters would have been removed from the list and unable to vote.

Vice-Chair Abhiraman recognized State Representative Ms. Viola Davis and Chair Swift invited her to speak.

Representative Davis stated that she does not agree with some of the laws that have recently been passed because it unfairly targets people due to their economics. She stated that the one right that we all have is the right to vote and to take it away, especially from people who served this county, is unimaginable harm and should be unconstitutional to even risk doing to any veteran. She also stated that there are attorneys currently on trial, but private citizens are held to a higher standard in terms of ignorance of the law. She thanked the Board for all they are doing and acknowledged the need for citizens to present challenges, but caution must be taken to not remove the vital right of voting.

ADJOURNMENT

Motion to adjourn by Ms. Motter, seconded by Vice-Chair Abhiraman. The motion carried 3-2 with Chair Swift, Vice-Chair Abhiraman, and Ms. Motter voting aye and Ms. Jester and Mr. Lewis voting nay. The meeting was adjourned at 11:27 a.m.