STATE OF ARKANSAS

BOARD OF APPORTIONMENT

MINUTES

The meeting of the Board of Apportionment was held, Wednesday, March 16, 2011, in the Supreme Court Courtroom, State Capitol, beginning at 8:30 a.m.

BOARD MEMBERS:
GOVERNOR MIKE BEEBE
ATTORNEY GENERAL DUSTIN McDANIEL
SECRETARY OF STATE MARK MARTIN

ALSO PRESENT:
DOUG MATAYO, Secretary of State's Office
A.J. KELLY, Secretary of State's Office
REBECCA BARFIELD, Secretary of State's Office
PAUL LOUTHIAN, DF&A
Media and the public

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P R O C E E D I N G S

GOVERNOR BEEBE: All right. I guess the first meeting of the Board of Apportionment will come to order.

I'm familiar with the work of this body, having been first interested in it, being interested in it in 1980 as an outsider interested in running for the Senate. But then in '90 and then in 2000 for obvious different reasons, but I've never been sitting here, and I guess none of us have ever been sitting here, so -- so it's all relatively new to us.

I guess the first thing we need to do is probably talk about staff, hiring an executive director or whatever we call them to run the thing. And I assume that that's what we -- I think the bill that was written, doesn't it contemplate three employees or something like that?

MR. McDANIEL: (Nodding head up and down.)

GOVERNOR BEEBE: However, having said that, I think the bill is for the next fiscal year, and that won't work. So we'll have to have a supplement -- wait a minute, Paul.

Am I saying something wrong?

Why don't you come around here and sit since you're DF&A's main man about all this stuff and you

know where all the money is and etc.

Sorry to put you on the spot.

Is there staff contemplated in the legislation?

MR. LOUTHIAN: I believe so.

GOVERNOR BEEBE: Or do we need to do something here to request supplementals or what?

MR. LOUTHIAN: Yes, sir. I believe you would need to ask for supplemental positions for the rest of this fiscal year.

GOVERNOR BEEBE: Okay. Now, the only funding that we have right now is $200,000, less what's been spent.

MR. LOUTHIAN: That's correct, sir.

GOVERNOR BEEBE: Which we need to talk about because you spent some money I don't think -- I think legally you couldn't spend yet, so -- I mean I don't think. Maybe you've got an answer for that.

MR. MARTIN: I'm not aware of any significant expenditures that wasn't made by the prior administration as far as the purchase of software and the facilities it was actually made available, that was made available when I took office. So I'm -- I have to assume that all of the expenditures have been appropriate up to this point.

GOVERNOR BEEBE: Well, and maybe you didn't, maybe your staff did this, but there are -- according to, I

guess, DF&A records, there has been about $70,000 spent out of this proclamation for a vehicle, for a car, and for employees and for consulting that I -- you probably want that in your budget instead of in this budget, don't you?

MR. MARTIN: Okay. Just, you know, whatever is actually appropriate, how to actually work that out.

GOVERNOR BEEBE: Okay.

MR. MARTIN: I'm not aware of anything that's been inappropriately spent but we can work that out.

GOVERNOR BEEBE: Well, right now let's -- don't say inappropriately, that's a bad choice of words. Let's say -- maybe we just need to talk about this after a while. Okay?

MR. MARTIN: Certainly. I think that this can all be worked out.

GOVERNOR BEEBE: Okay. Mr. Attorney General?

MR. McDANIEL: Okay. Well, I would just point out that as a board, discussions like that actually need to be handled in public.

GOVERNOR BEEBE: Very good point. We'll discuss it in public.

All right. The first thing is an executive director. Right?

MR. LOUTHIAN: Yes, sir.

GOVERNOR BEEBE: And that's contemplated in the law but we need a supplemental position?

MR. LOUTHIAN: Yes, sir.

GOVERNOR BEEBE: We have somebody that has some experience, I think, that's said something. What's his name?

MR. McDANIEL: I received a call indicating that a former attorney or staff person with the Secretary of State's Office named Joe Woodson, I have received no application or resumé, but I was indicated that he's been well trained and that, apparently, on good terms, I don't understand -- I don't understand there is any kind of improper termination of cause but certainly we would have to ask you about that. But I was told that he is no longer employed and would be a very good potential hire, and so obviously to the extent it's a personnel matter, I wanted to ask you about that.

MR. MARTIN: There is no personal or performance issues with Joe Woodson.

MR. McDANIEL: That's what I was told, so I have no problem with making a recommendation to see if he's available and interested.

GOVERNOR BEEBE: And do you --

MR. McDANIEL: And we can extend the job to him if he wants to take it.

GOVERNOR BEEBE: Is that all right with you?

MR. MARTIN: That's fine.

GOVERNOR BEEBE: I'll accept that as a motion that we inquire of Mr. Woodson about his interest in being an executive director, whatever you -- whatever Paul and them end up calling him in the -- in the hierarchy of things, that's -- and you're second --

MR. MARTIN: I believe that position in the past has actually been referred to as a redistricting coordinator.

GOVERNOR BEEBE: Okay. Redistricting coordinator, then. We'll call him redistricting coordinator. Is that okay?

MR. MARTIN: Yes, sir.

GOVERNOR BEEBE: Okay. And then without any further ado, that will be the first step.

What's our second step?

MR. McDANIEL: May I?

GOVERNOR BEEBE: Sure. Either one of you.

MR. McDANIEL: Well, just as we were walking in the door, Governor, you gave me a copy of this, and I understand you've now given the Secretary of State a copy.

GOVERNOR BEEBE: Well, I took it back.

MR. McDANIEL: Okay.

GOVERNOR BEEBE: But I'll give it back to him.

MR. McDANIEL: And obviously we need to discuss the expenditures that have been made heretofore, but truthfully, I don't know -- I know that a proclamation was made, the original budget for the board itself did not successfully make it through the legislative process, and so a supplemental appropriation was made and I don't know if that was made to the Secretary of State's Office, in which case the secretary has discretion on how to spend it, or if it was made to the board, in which case it requires two of the three of us to expend it, so that would have to be I guess the initial question.

GOVERNOR BEEBE: Well, it wasn't a supplemental appropriation.

When -- and I actually vetoed the appropriation because they were taking money out of, as I recall, for local projects that ran counter to what I thought was both good public policy as well as the Supreme Court dictates and so the Board of Apportionment didn't have an appropriation from the last fiscal session. So I released $200,000 from the Governor's Emergency Fund by proclamation specifically for the board, with the Secretary -- I released it to the Secretary of State's Office, and the Secretary of State is the disbursing

agent and it's for the Board of Apportionment. So it is Board of Apportionment money but the paying agent, like it's always been, like it was housed in the Secretary of State's Office.

MR. MARTIN: Yes, I'm kind of familiar with the process there. One of the things about that that I just assumed is that since the expenditures for redistricting had already been made without the meeting of the Board of Apportionment for software and materials like that, I was under the understanding that that was a discretion for the Secretary of State for the expenditures of moving forward with redistricting. There is, in support of redistricting, the Secretary of State's Office actually does some work with the counties, there is a lot of work intently helping the counties with their redistricting process, in which case an automobile was necessary. And then also at the time I thought that I was responsible for actually providing the election coordinator, from all the documents that I had actually seen of how it's been done in the past, so we went about actually hiring a redistricting coordinator at that time. So any of the -- any expenditures I think are within what is the normal process, considering that the redistricting board has not met until this -- this late date. I mean

in the past those expenditures were made after the redistricting board was made, but I didn't see in the minutes where there was any decisions on how those expenditures was going to be made. So up to this point I think that I have actually just kind of followed what the traditional process has been.

GOVERNOR BEEBE: Well, I think the traditional process is that we -- we've got to do it as a board, or at least let you check and make sure that it's okay to make the expenditures. But we'll -- we'll have to ferret this out and figure out what needs to -- what needs to occur going forward.

I mean I don't know what else to say about it, do you, Mr. Attorney General? Have you got anything else you want to say or, Mr. Secretary, anything else you want to say about it?

MR. MARTIN: In addition to these things, I think that one of the -- some of the things that we really need to actually move forward with is establishing a sort of a time line for performance of duties of the redistricting board, and I think we also probably need to move forward in starting to schedule and organize how we actually have -- open this process up for public comment --

GOVERNOR BEEBE: I agree.

MR. MARTIN: -- and some meetings around the state so that we can actually involve the public in their local communities --

GOVERNOR BEEBE: Sure.

MR. MARTIN: -- in the process.

GOVERNOR BEEBE: Mr. Attorney General?

MR. McDANIEL: Well, I think that certainly having public input is going to be critical, ensuring not just the appearancy -- the appearance of transparency but actual transparency in our process is very important. And I think before we can do that, we have to establish some -- some clear protocols and guidelines for the expenditure of funds.

I am not using the word inappropriate all, Mr. Secretary. That -- I thank you for the work that you have done heretofore on getting us moving down the road. But the only discussion between the board members about expenditure of moneys that I recall was before the end of the year --

GOVERNOR BEEBE: Yeah.

MR. McDANIEL: -- when Mr. Daniels asked for our consent to purchase computer software, which we said, of course. We need computer software.

As you know, that computer software, we thought, was going to be compatible for all board members. And

your staff has worked diligently, I have no criticisms of your staff, but for the last three months only one-third of the commission has actually had a computer that -- that functioned. And they have tried to get our computers up and running. Again, I don't offer any criticism at all, I extend my appreciation for the amount of work that they have done. Even the manufacturer has tried to figure out how to make the computers at the Attorney General's Office talk to the computers at the Secretary of State's Office, which apparently they are on two different servers and there is a geographical distance, because as most people don't realize my office is not in the capitol, and the time lag makes it to where the darn thing doesn't work. And so as of last week, I had to spend $19,000 out of my budget to buy a computer system just to turn it on.

And so members, of course, are very interested in this process. I was not in the general assembly during a -- none of us were in the -- well, he was.

GOVERNOR BEEBE: Yes, I was.

MR. McDANIEL: He was. I meant me and the Secretary. You were around when the earth was cool.

GOVERNOR BEEBE: That's correct.

MR. McDANIEL: But we were not there, but obviously members are talking to it us a lot, and I

have not been able to respond to some of the inquiries and questions and even suggestions that they have had from your office about the potential maps and ideas, because I couldn't make the computers turn on. And so we had to do that, and so I just think that before we can be really effective, we have to get a process down for how our money is going to be spent, how do we account for the moneys that have already been spent and what responsibilities will we bestow upon an executive director, and then after that, or -- or an election coordinator or whatever you want to call this person and then after that, I think that setting up a swift time line for public comment and all that thing, all of that will be appropriate. But I think we have to do a little housekeeping before we can effectively do that.

GOVERNOR BEEBE: Well, I think that the first thing we've got to do is hire that, what did you call him, redistricting coordinator?

MR. MARTIN: Yes, sir.

GOVERNOR BEEBE: Hire the redistricting coordinator and give that redistricting coordinator the rough outline or time line of how quickly we want them to respond. I would suggest that we have something done within three weeks, have another meeting within three weeks and ask that coordinator to report back

with a proposed time line for us to either reject or accept or modify or amend or alter in whatever way we see appropriate, and then try to address these issues, these technological issues about the sharing of the computer information. I don't think our office has the same problem that the Attorney General's Office has, because the proximity of our offices negates the technical problem that exists with having the Attorney General's Office that far away, in terms of the computer compatibility and speed with which that information travels. But I think, I mean I know you're busy, I'm busy, he's busy, I'm busy with a session that inevitably takes up an inordinate amount of time that would otherwise be available after the session is over, but that doesn't negate the fact that we need to get on with it and get going. And I think the coordinator needs to immediately lay out a protocol plan for our approval or disapproval or modification and we meet back here in three weeks.

MR. MARTIN: I think that what the Governor -- what Governor Beebe is suggesting I think is a good course of action. One of the things that I had not thought about was the proximity of the Attorney General's Office to the core down here. But so one of the things I want to make sure that everybody

understands is that the Governor's Office and the Attorney General have private secure offices that they can actually use --

GOVERNOR BEEBE: Yeah.

MR. MARTIN: -- in the Victory Building at the redistricting center that's there at the Victory Building and that also gives you access to the plotter and what not so that you can actually print out, have people in with meetings, staff, and what not and the locks can be changed at y'all's discretion so that y'all can keep those particular offices secure for your purposes. So we can make that available for the Attorney General to actually have a very specific office within the core of what's going on so that he -- you don't continue to suffer some of these problems.

MR. McDANIEL: Thank you.

Y'all have been very gracious, I don't have any complaints about your staff in that manner. I appreciate very much the work that they have done.

GOVERNOR BEEBE: You see how good everybody is working together?

MR. MARTIN: (Nodding head up and down.)

MR. McDANIEL: (Nodding head up and down.)

GOVERNOR BEEBE: All right. What else do we need to do this morning?

MR. McDANIEL: Will your staff take on the responsibility of reaching out to Mr. Woodson?

GOVERNOR BEEBE: Yes. Do we have a budget on or parameters on what to pay this person?

MR. LOUTHIAN: No, sir. That would be something -- no, sir. That will be set up in the supplement position or in the paperwork.

GOVERNOR BEEBE: Yeah. We'll check with OPM and see if we can't get some guidelines as to what this kind of job normally pays and what -- what position would be most appropriate in the pay scale of things, and then offer this -- offer the job. But if he doesn't take it, then we need to have an immediate other meeting with thoughts, names, and suggestions for alternatives, so if it's all right, we'll -- we'll try to schedule a meeting three weeks from today.

What is three weeks from today? Does anybody happen to know off the -- does anybody have their calendar?

MR. McDANIEL: Yeah, I've got one here.

AUDIENCE MEMBER: 6th.

GOVERNOR BEEBE: 6th?

Is there any reason, does anybody know any reason off the top of their head by any of the three staffs why one of the principals couldn't be here on the

6th?

All right. Subject to you all checking your calendars and making sure you didn't have a commitment or you didn't have a commitment or I didn't have a commitment somewhere else, we'll tentatively set an 8:30, same time, same place, assuming the Senate lets us have the room on April 6th, but I think they will hopefully be gone by then and so there won't be a problem, if not we'll make arrangements elsewhere.

If -- if the proposed person to be the coordinator rejects the job, then we'll call a special meeting and give plenty of notice to the press, or at least emergency notice to the press, and come back with more thoughts, ideas, or names for a coordinator so that we can get on with the process.

And if it's all right, I understood that it was at least some sort of agreement here that we're going to ask the coordinator, assuming he accepts the job, to come up with protocols and agendas for our consideration at the next meeting.

Right?

MR. McDANIEL: And, of course, analysis of expenditures heretofore and what we do about them.

GOVERNOR BEEBE: And an analysis of these expenditures and what we do about it.

Okay? What else?

MR. McDANIEL: Move to adjourn.

GOVERNOR BEEBE: Motion to adjourn. Is there a second?

MR. MARTIN: Second.

GOVERNOR BEEBE: Okay. We are adjourned.

(WHEREUPON, at 8:50 a.m., the above-entitled proceedings were concluded.)

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CERTIFICATE

STATE OF ARKANSAS)
COUNTY OF PULASKI)

I, SUSAN B. WHITSON, Certified Court Reporter and notary public in and for Pulaski County, State of Arkansas, do hereby certify that the meeting of the Board of Apportionment, held March 16, 2011, was taken by me in Stenotype and was reduced to computer-generated typewritten form by me or under my direction and supervision and that the same is a true and correct reflection of the proceedings that occurred, to the best of my knowledge and ability.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all

parties to the action.

SIGNED AND SWORN this _____ day of

_____ _____.

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SUSAN B. WHITSON, CCR, #158

NOTARY PUBLIC IN AND FOR

PULASKI COUNTY, ARKANSAS

My Commission Expires: June 4, 2012.

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