

MEMORANDUM

TO: GEORGIA REPUBLICAN PARTY STATE COMMITTEE

FROM: APPEALS COMMITTEE
IN THE MATTER OF FULTON COUNTY CONVENTION
(John White, Chair; Dennis Coxwell; Bert Guy, Secretary; Linda Herren; Bob Mayzes)

RE: FULTON COUNTY CONVENTION APPEAL

DATE: OCTOBER 16, 2007

Background

This matter had its beginning when certain members of the Fulton County Republican Party raised issues regarding certain significant irregularities and questions of ballot integrity in the conduct of the March 24, 2007 Fulton County Republican Convention and in particular the election of the Fulton County Republican Party Chairman. Some of these individuals requested a meeting of the Fulton County Republican Executive Committee to address the controversy. As a result of that request, a meeting of the Fulton County Executive Committee was held on April 13, 2007. While matters relating to the irregularities and questions were discussed, no motions or formal votes were permitted and as a result there was no formal decision concerning the controversy.

Consequently on May 3, 2007, an appeal, under State Party Rule 3.7 was filed by 32 qualified Republican voters from Fulton County, seeking review of the matter.

State Party Rule 3.7 (in the version of the Rules in force at the time) dictates certain responsibilities to the County (Executive) Committee. "Each County Committee shall decide all controversies and contests arising within its jurisdiction, with the right to appeal the decision of the County Committee." [Emphasis added.] A clear reading of Rule 3.7 indicates that the Fulton County Executive Committee had the responsibility of making a decision in this matter. The inaction on the part of the Fulton County Executive Committee must be considered a de facto decision. To do otherwise would allow County Committees to deny those involved in controversies and contest access to the appeals process since State Party Rules require decisions of this nature to be made first at the county level. As a result, the appeal at hand was filed with the Georgia Republican Party, and this Appeals Committee was appointed to hear it.

Report

The Appeal filed with the State Committee and referred to the State Appeals Committee alleges specific, significant irregularities in the conduct of the convention and the election of the Fulton County Chairman:

1. Inconsistency in the registration and credentialing of delegates to the convention, including the late registration of a delegate.
2. A “first ballot” controversy: The credentials report declared that 266 delegates (including alternates moved up to delegate status) were present and authorized to vote. Yet when 266 ballots were distributed, there were still some 20 to 30 delegates who did not receive ballots.
3. A “second ballot” controversy: in part the result of a miscount in the credentials report which declared that there were 244 delegates present (a subsequent recalculation determined the number should have been 254), variously reported numbers of blank ballots returned, errors in ballot distribution, questions about the accurate count of delegates remaining for the “second ballot” and reports of unaccounted for ballots.
4. At least three different delegate tally sheets circulated.
5. Questions about the correct number of delegates present in House District 49 and the correct number of ballots voted and accounted for.
6. Various scenarios as to the proper number of ballots: The announcement that there were 244 eligible delegates, the announcement that 250 delegates had voted and discrepancies in the reported blank, unvoted ballots returned.
7. The outcome of the balloting was 128 for Mike Dvorscak and 122 for Shawn Hanley, a six vote margin.

In order to sort through the various issues, the Committee on September 7, 2007 held a preliminary hearing at the State Party Headquarters with the parties and witnesses present to determine the issues. Following the hearing, the Committee set a deadline of September 19, 2007 for the parties to submit any and all evidence and additional comments. A final hearing on the matter was held on September 28, 2007.

During the preliminary hearing, the representatives of the Fulton County Party raised the objection that the Appeal was not filed within 30 days of the March 24, 2007 County Convention. The Appeals Committee responded that the above quoted language in State Party Rule 3.7 was sufficiently broad in scope for petitioners to have relied on the Fulton County Executive Committee as their first stop in seeking to resolve the controversy. The Committee determined that the Fulton County Committee’s failure to act as required under State Party Rules was a de facto decision from which the petitioners properly appealed to the State Committee within 30 days of April 13, 2007 meeting.

Another objection raised by Fulton County representatives was that the attachment to the petition was not reviewed with the signatories at the time of their signatures but was later added. The Committee finds the formal petition signed by 32 qualified Republican voters valid because the heading on the signature pages states:

“We, the undersigned, in accordance with State of Georgia Republican Party Rule 3.7, do hereby appeal to the State Committee the decision of the Executive Committee of the Fulton County Republican Party made on the 13th of April, 2007, to no allow for a replacement vote for the election at the County Party Convention held on the 24th of March, 2007. We hereby request a review of the proceedings at the convention by the State Republican Party Committee, and request that an anonymous ‘mail-in’ election be executed by the State Party.”

This statement complies with Rule 3.7 and the attachment called into question by Fulton County merely amplifies and adds specifics to the language of the petition. The Committee was told that one of the 32 signatories of the petition had not seen all of the specifics of the attachments and as a result wished to have her name removed. Removal of the individual’s name would not invalidate the petition.

The Committee received over 100 pages of documents and statements from a variety of sources concerning the appeal. The Committee also received an hour-long video (DVD) of the “second ballot” portion of the convention and was provided the cast ballots and a tally sheet for the convention.

The Committee met in Executive Session on September 7, 2007 and on September 28, 2007 to review the materials received and discuss the matter. The Committee met electronically after receiving the final submissions of the parties. The Committee reviewed the written materials, video of the convention, and oral presentations and considered those in the context of the Rules of the Georgia Republican Party in effect in March and April of 2007.

As regards the video, the Committee reviewed, in careful detail, the submitted DVD of the relevant portion of the convention. The DVD covered the period beginning after the first attempted ballot for Chairman was ruled invalid and until the completion of the second ballot for Chairman. The Committee observed activities on the DVD that indicate significant confusion and weak control of the balloting process. When a second ballot was determined necessary, the convention chair several times directed delegates to take their seats in order to be counted for determination of delegates present. While some took their seats in their respective House Districts, many individuals continued to stand and others wandered around the convention hall. Under these circumstances it would have been appropriate for the chair to gavel the convention to a halt until everyone was seated and the convention floor cleared. At that time, the house district chairs could have made accurate counts and announced the result from the floor which would have allowed others the opportunity to challenge any errors.

After reviewing all of the materials including the DVD, the Committee cannot with any degree of confidence certify that the number of delegates reported as present for the “second ballot” was in fact the number present on the floor of the Convention. Conventions, by their nature are not neat and tidy affairs. In this instance, however, the disorganization went well beyond the convention norm.

(Note: The Committee recognizes that these comments are after the fact but they also raise another important consideration and that is the lack of detailed pre-convention planning. It is clear from statements submitted to the Committee that there was not sufficient pre-convention planning for what should have been anticipated as a “hotly contested” county chairman’s race. Indeed, the Convention Chairman was a last minute substitute who did not have sufficient time to prepare.)

After the House District chairs had reported the number of delegates present for the “second ballot”, the convention chair and the credentials chair handed out numbered ballots from the stage lectern to House District chairs. Yet, several individuals in statements to the Committee reported receiving unnumbered ballots. No unnumbered ballots were found among the cast ballots turned over to the Committee. A number of individuals approached and engaged the convention chair and the credentials chair in conversation during the ballot distribution process. At times, both appeared to have been distracted from the ballot distribution counting process. At one point, the convention chair gave out one extra ballot, which was returned by the House District chair before leaving the stage area indicating a miscount. At another point, the convention chair appears to tear ballots in half, hand them to a House District chair, who in turn hands the ballots back to the chair. The convention chair places the torn ballots on the lectern and gives other ballots to the HD chair. During the distribution process, HD 53 chair receives nine ballots and later returns to get another ballot for an individual missed during the original count.

There were also weak controls over the issuance and retrieval of ballots. There were three credentials ballot tally sheets submitted to the Appeals Committee. Two of these contained numerous strike-through and error corrections. There was no contemporaneous log kept of ballot numbers issued to House District chairs. There was also no log kept of unused ballots returned. The result is that there is no definitive record of what ballots were distributed to whom and who returned which unused ballots.

This Committee has made a thorough review of all evidence and carefully considered the Rules regarding the appeal. The Committee was presented several possible scenarios regarding the number of ballots and their disposition, but we were unable, with complete assurance, to select any one scenario as being more reliable than another.

Recommendations:

As a result of these significant irregularities and because of the extreme chaos during the balloting, the Committee unanimously concludes that to insure the integrity of the election of Chairman of the Fulton County Republican Party another election be conducted.

The Committee, therefore, recommends to the State Republican Committee that the relief requested in the appeal (a mail-in ballot for Fulton County Republican Chairman) be granted under the following conditions:

1. That paper ballots be mailed by the State Republican Party to each delegate properly registered and present at the March 24, 2007 Fulton County Republican Convention.
2. That both parties, the petitioners and the representatives of the Fulton County Republican Party, meet with the appropriate Appeals Committee members to determine the correct list of delegates who were properly registered, present and who should receive a ballot. In the event the parties cannot agree, the Appeals Committee is empowered to make a final determination.
3. That to secure a secret ballot, a two-envelope system be used and that the returned ballots be mailed to State Republican Headquarters.
4. That the entire process be supervised by the State Appeals Committee.
5. That the cost of the balloting process be paid for by the Fulton County Republican Party.

Finally, the Committee recommends that the State Committee remind all County and District Committees of their obligation under the provisions of State Party Rules to attempt to resolve controversies and conflicts within their jurisdiction and that appeal to the State Committee and State Appeals Committee should be a matter of last resort. Further the Appeals Committee recommends that the State Committee remind County and District Committees that, unless special circumstances dictate, matters of this nature are best handled at the local level.