

MINUTES

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3 The State Board of Elections Board Meeting was held on Monday, August 6,
4 2012. The meeting was held in the General Assembly Building, House Room C in
5 Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was
6 Charles Judd, Chair; Kimberly Bowers, Vice-Chair; Donald Palmer, Secretary; Joshua
7 Lief, Senior Assistant Attorney General and SBE Counsel; Justin Riemer, Deputy
8 Secretary; Nikki Sheridan, Confidential Policy Advisor; Chris Piper, Election Services
9 Manager; David Blackwood, Policy Analyst and Matt Abell, Election Services. Chairman
10 Judd called the meeting to order at 10:00AM.

11 The first order of business was the Secretary's Report delivered by Secretary
12 Palmer. The Secretary's Report is an agenda item for each Board Meeting describing
13 recent developments at SBE. Secretary Palmer reported that the Voter Registrars'
14 Association of Virginia met in Stanton, Virginia recently for their annual conference.
15 Secretary Palmer stated that it was an excellent opportunity for the State Board of
16 Elections' staff members, general registrars, and the election community to discuss
17 current changes and challenges. Secretary Palmer stated that there is a special election
18 occurring in Virginia on September 4, 2012. Secretary Palmer stated that SBE is
19 currently working on the voter card mailing that will be sent to all register voters by the
20 end of September 2012.

21 The second order of business was the ballot position drawing for the special
22 elections to be held on September 4, 2012. Matt Abell, Election Services, explained the
23 process to the Board. When determining ballot order, Vice-Chairman Bowers drew the
24 "Republican" paper first and Secretary Palmer drew the "Democratic" paper seconded.
25 Chairman Judd confirmed that the Republican candidates will appear first on the ballot
26 and the Democratic candidate will appear second on the ballot for the special elections to
27 be held on September 4, 2012.

28 The next order of business was the Board discussion of petition irregularities.
29 Justin Riemer, Deputy Secretary of the State Board of Election, stated that on July 27,
30 2012 the Alexandria City General Registrar noticed some irregularities while reviewing
31 petitions for an independent candidate running for the President of the United States. Mr.
32 Riemer stated that the general registrar contacted SBE stating that he believed that at least

33 one petition may contain fraudulent information. Mr. Riemer stated that the petitions in
34 question were circulated on behalf of Virgil H. Goode, Jr. for President and Daryl Castle
35 for Vice-President. Mr. Riemer stated that the circulator completed at least 146 petition
36 forms for multiple localities in Northern Virginia. Mr. Riemer stated that SBE staff
37 closely reviewed the petition and the similarities in the penmanship on a number of
38 petition entries were apparent. Mr. Riemer stated that bringing this before the Board was
39 appropriate since the State Board is responsible for ballot access processes for
40 independent presidential candidates and the fact it involves a potential violation of the
41 elections laws for multiple localities in the Commonwealth. Mr. Riemer stated that he
42 believed that the Board should at least consider exercising its' authority under § 24.2-104
43 to request an investigation by the Attorney General. Chairman Judd asked if there were
44 any questions. Vice-Chair Bowers asked that SBE legal counsel speak to the issue since
45 the Board had not addressed petitions before. Josh Lief, Senior Assistant Attorney
46 General and SBE Counsel, stated that by unanimous request the state board can exercise
47 their authority granted by the Code of Virginia, § 24.2-104, to conduct an investigation
48 and prosecute a violation to ensure the enforcement of the election laws and report the
49 results of that investigation to the State Board. Mr. Lief stated that he had reviewed the
50 petition forms submitted by the General Registrar of Alexandria City and explained the
51 potential violations of the law if the suspicions are confirmed. Chairman Judd inquired if
52 there were any public comments and there were none. Secretary Palmer moved to accept
53 the staff recommendation to request that the Attorney General investigate the validity of
54 the Alexandria City petitions. Vice-Chair Bowers seconded the motion and the Board
55 unanimously passed the motion.

56 The next order of business was the Board discussion of the Voter Participation
57 Center (VPC) and the incidents surrounding their mailing of voter registration
58 applications to Virginians. Chairman Judd stated that SBE was aware of the aggressive
59 voter registration campaign in Virginia and that it appeared many in the crowd were
60 present to discuss that issue. Chairman Judd explained that, because of FOIA, the Board
61 is unable to discuss the issue until they are present at a Board meeting. Accordingly, this
62 meeting was necessary and would permit citizens and groups to formally submit their
63 concerns to the Board. Chairman Judd briefly explained the electoral system of Virginia.
64 Chairman Judd noted his concern that campaigns now litigate when they are unable to

65 achieve their goal under the law and that the Board has experienced the issue. Chairman
66 Judd said that SBE shared the goal of wanting to see every eligible voter participate in the
67 process. Chairman Judd stated that the job of the Board is to protect the integrity of the
68 process. Chairman Judd said that new legislation increased the amount of acceptable
69 forms of identification. Chairman Judd stated that through the efforts of SBE nine forms
70 of personal identification versus five forms of personal identification are acceptable at the
71 polling place.

72 Chairman Judd stated that the Board members have been asked to look at the
73 activity of VPC and that SBE shares the common goal of registering voters. Chairman
74 Judd stated that VPC is utilizing direct mail techniques to obtain this goal, techniques that
75 the Chairman was personally familiar with previous business experience. Chairman Judd
76 stated that he is aware of the concerns of the reported irregularities. Chairman Judd stated
77 that in the direct mail business it pays to scrub your list and know to whom you are
78 mailing. Mr. Chairman believes that this marketing campaign missed the mark and that it
79 was a fairly sloppy process. Chairman Judd stated that he is completely aware of all the
80 issues and is particularly concerned when over 700 calls have been received by SBE
81 expressing confusion, frustration and concern over the recent mailing by VPC. Chairman
82 Judd stated that he was extremely concerned over the insensitivity of those mailings
83 especially those that went to the families of deceased voters. Chairman Judd recounted
84 examples of individuals receiving applications for deceased relatives. Chairman Judd
85 stated that as a result of these incidents Secretary Palmer requested that VPC discontinue
86 the practice of pre-populating the forms. Chairman Judd stated that the leadership of VPC
87 accepted SBE's request and will be incorporating a revised protocol for all future
88 mailings.

89 Chairman Judd said that we now have a request from the Romney for President
90 Campaign to take it a step further. Chairman Judd noted he was not sure if the Board had
91 the authority to do what the Board was asked to do.

92 Chairman Judd asked if there were any other comments from the Board members.
93 Vice-Chair Bowers stated that it is important to look at the intent of VPC and with the
94 goal of transparency and non-partisanship we want every voter who has the honest
95 intention of registering to vote and having that vote counted to be afforded that
96 opportunity. Vice-Chair Bowers stated that she had received comments on this issue and

97 wanted to ensure the individuals who are already registered to vote are not
98 disenfranchised by the recent activity of VPC. Vice-Chair Bowers stated that she
99 appreciated VPC's efforts as well as their response back to SBE regarding corrective
100 measures as it relates to pre-populated registration lists. Vice-Chair Bowers stated that
101 she believes that it is important not to disenfranchise voters who are receiving voter
102 registration forms, filing them out correctly, and then returning them to the general
103 registrars. Vice-Chair Bowers stated that the SBE Board members appreciate the work of
104 the electoral boards and general registrars that work tirelessly everyday to check the
105 return voter applications forms and the process they follow to ensure that the integrity of
106 the vote is secure. Secretary Palmer stated it is important to understand the role of SBE.
107 Secretary Palmer stated that it is important to keep the registration process simplified and
108 not upset the voter. Secretary Palmer stated that the amount of calls received at SBE by
109 registered voters confused by the mailings indicated the complexity of the situation and
110 that there are a lot of lessons learned as a result of these recent mailings. Secretary
111 Palmer stated that these recent mailings are unacceptable. Secretary Palmer stated that
112 this is a busy time for the general registrars who are ensuring that every voter application
113 is processed and that every eligible voter is able to vote in the upcoming general election.
114 Secretary Palmer stated that it is essential that the voters' lists are clean. Secretary Palmer
115 stated that although VPC believed that they received a clean list from a third party vendor
116 that they really needed to work with SBE to ensure all voter mailings lists are accurate
117 and current. Secretary Palmer stated that SBE Board members reviewed the request from
118 the Romney Campaign. Secretary Palmer stated that he is confident that the general
119 registrars utilizing the processes that are in place will identify any ineligible voters.
120 Secretary Palmer stated that all steps should be taken to mitigate the problems that
121 resulted due to the VPC mailing. Secretary Palmer stated that registered voters, while
122 confused with the mailings, should not be concerned about their current voting eligibility.
123 Josh Lief, Senior Assistant Attorney General and SBE Counsel, stated that under § 24.2-
124 104 that if the Board is aware of unlawful activity occurring or had a suspicion that
125 unlawful activity was occurring in a voter registration drive or activities the Board has the
126 authority to request an investigation by the Attorney General. Mr. Lief reemphasized that
127 the decision to request an investigation rests upon SBE Board members. Mr. Lief
128 provided an overview of each of the Code sections that would apply to the allegations

129 introduced by the Romney Campaign in reference to VPC. Chairman Judd thanked Mr.
130 Lief for the legal counsel and inquired if there was a representative from VPC present
131 that would like to comment.

132 Scott Thomas, of counsel with the Dickstein Shapiro LLP, representing the Voter
133 Participation Center approached the podium. Mr. Thomas thanked the Board members
134 for their time and their commitment to resolve the issue. Mr. Thomas stated that there are
135 over seventy three million people in this country that are not registered to vote including
136 two million people who are eligible to vote in the Commonwealth. Mr. Thomas stated
137 that VPC has worked for years to get those individuals registered especially those
138 individuals who have been underrepresented. Mr. Thomas stated that the VPC has
139 specialized in voter registration campaigns through the use of mail-in registration
140 materials. Mr. Thomas stated that this is a time proven method that provides a convenient
141 and cost effective method of registration. Mr. Thomas offered to answer any questions
142 that the Board members may have that will aid in their decision-making process relating
143 to the request by the Romney Campaign. Mr. Thomas stated that the stance of VPC is
144 that the request by the Romney Campaign should be rejected. Mr. Thomas stated that the
145 individuals receiving the voter registration materials from VPC have the choice to
146 complete the form. Mr. Thomas states that clear guidance is provided on how to be
147 removed from the VPC mailing list on all materials. Mr. Thomas stated that VPC shares
148 the concerns of the Board as it relates to the list. Mr. Thomas stated that as a result of
149 these lessons learned VPC developed 13 additional protocols to address the concerns of
150 SBE and the voters of the Commonwealth. Mr. Thomas stated that VPC deeply regrets
151 the errors that have been made and strongly urges SBE not to ask the Attorney General to
152 investigate. Chairman Judd asked if there were any questions for Mr. Scott and there
153 were none. Chairman Judd thanked Mr. Scott for providing an overview of the VPC
154 efforts to registrar voters in the Commonwealth. Chairman Judd inquired if there were
155 any additional public comments. The following individuals provided comments to SBE
156 Board members regarding the topic of the VPC mailing.

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- 158 ❖ Tom White, Hanover County, Virginia Citizen and Voter
- 159 ❖ Hope Amezquita, Legislative Counsel, ACLU of Virginia
- 160 ❖ Joe Cook, Hampton Roads, Move On Organization

- 161 ❖ Phil Griffin, Winchester, Attorney
- 162 ❖ Sallie Johnson, Chesterfield, Virginia Citizen and Voter
- 163 ❖ Carmen Taylor, Virginia State Conference, NAACP, Vice President
- 164 ❖ Anna Scholl, Progress Virginia, Executive Director
- 165 ❖ Dorcas Gilmore, National Office of NAACP, Assistant General Counsel
- 166 ❖ Langdon Hagen-Long, Virginia Beach, Organizing for America
- 167 ❖ Katie O'Connor, Advancement Project, Staff Attorney
- 168 ❖ Tram Nguyen, Virginia New Majority, Associate Director
- 169 ❖ Kirk Jones, Henrico County, Virginia Citizen and Voter
- 170 ❖ Dick Brown, Charlottesville, Virginia Citizen and Voter
- 171 ❖ D.M. Love, Hampton, Youth & College President NCAAP
- 172 ❖ Marie Stella, Virginia Citizen and Voter
- 173 ❖ Isaiah Jefferson, Veteran U.S. Army

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175 Chairman Judd inquired if there were any other public comments and there were
176 none. Chairman Judd inquired if there were any comments from the Board members.
177 Secretary Palmer thanked all speakers for their comments. Secretary Palmer stated that
178 all citizens of the Commonwealth should be confident that the general registrars will
179 protect the vote and identify all ineligible individuals applying to register to vote.
180 Secretary Palmer stated that SBE has the discretion of referring future information to the
181 Attorney General. Secretary Palmer stated that SBE is working with VPC directly to
182 correct the errors previously exposed. Vice-Chair Bowers thanked the individuals who
183 spoke and all of the concerned citizens present who witnessed the process. Vice-Chair
184 Bowers stated that she shared similar concerns and that voting is a serious matter
185 supported by an effective registration process. Vice-Chair Bowers stated that protecting
186 the vote is the priority and does not feel that an investigation is necessary based on the
187 evidence presented. Vice-Chair Bowers stated that it would be satisfactory if VPC
188 corrected the issues presented through the utilization of the 13 new protocols. Vice-
189 Chair Bowers stated that it is her hope that we move forward and that more Virginians
190 register to vote. Chairman Judd stated that everyone shares in the goal of getting every
191 Virginian registered to vote. Chairman Judd thanked everyone that participated in the

192 Board Meeting and expressed that the passion displayed for this process was heartening.
193 Chairman Judd inquired if there were any other comments and there were none.

194 Chairman Judd stated that the SBE Board operates on motion and asked if there
195 was a motion for an investigation by the Attorney General. Chairman Judd stated that no
196 motion was offered. Chairman Judd stated that the SBE Board would move on to
197 Executive Session that was listed on the agenda. Chairman Judd then noted that no
198 Executive Session was required. Chairman Judd inquired if there were any items under
199 “Other Business”.

200 Justin Riemer, Deputy Secretary, stated that SBE received some guidance from
201 legal counsel on the Voter Registration Drive Guidelines previously approved by the
202 SBE Board regarding the restrictions on the retention of registration information by third
203 party registration groups. Based on guidance by Mr. Lief, those restrictions are not
204 enforceable. Mr. Riemer stated that SBE staff would present a revised document related
205 to this subject matter at the next Board Meeting. Chairman Judd inquired if there are
206 restrictions on the use of information gathered by third party registration groups. Joshua
207 Lief, Senior Assistant Attorney General and SBE Counsel, stated that the guidance
208 document, Voter Registration Drive Guidelines, states that third parties should not
209 defraud or sell the information retained during the registration process which falls in line
210 with Virginia’s identity theft statute. However, to impose a wholesale restriction on use
211 of that information is not enforceable.

212 Chairman Judd asked if there was any other business to come before the Board for
213 the Good of the Order and with there being none Vice-Chair Bowers made a motion to
214 adjourn. Chairman Judd seconded the motion and the Board unanimously passed the
215 motion. The Board shall reconvene on August 23, 2012 at 2:00 PM in the General
216 Assembly Building, House Room C. Chairman Judd asked for any further public
217 comments. There being none, the meeting was adjourned at approximately 11:40AM.

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224 Chair

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Secretary

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Vice-Chair