

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Monday, November 16,
4 2015. The meeting was held in the General Assembly Building, Richmond, Virginia –
5 Room C. In attendance, representing the State Board of Elections (SBE) was James
6 Alcorn, Chairman; Clara Belle Wheeler, Vice Chair; and Singleton McAllister, Secretary.
7 Also in attendance, representing the Department of Elections (ELECT) was Edgardo
8 Cortés, Commissioner; Elizabeth Howard, Deputy Commissioner; Martin Mash, Policy
9 Advisor, Brooks Braun, ELECT Policy Analyst; and Rose Mansfield, Clerk. Heather
10 Hays Lockerman, Senior Assistant Attorney General and Counsel to SBE and ELECT
11 and Anna Birkenheier, Assistant Attorney General and Counsel to SBE and ELECT
12 attended. Chairman Alcorn called the meeting to order at 1:10PM.

13 The first order of business was the approval of the Minutes from the State Board
14 of Elections Board Meeting held on October 6, 2015. Chairman Alcorn asked if Board
15 Members had any additions or corrections to the Board Meeting Minutes presented and
16 there were none. Secretary McAllister moved *to adopt the Minutes for the October 6,*
17 *2015 meeting.* Vice Chair Wheeler second the motion. The Board unanimously approved
18 the motion. Chairman Alcorn noted that the review of minutes from the November 3,
19 2015, meeting would be passed to the December 16, 2015, SBE meeting.

20 The second order of business was the Commissioner Report. Commissioner
21 Cortés stated that ELECT launched an on-line absentee ballot application function on the
22 citizens' portal – ELECT website two weeks prior to the absentee ballot request deadline.
23 Commissioner Cortés stated that during that period 16% of the ballots requested were
24 completed by utilizing the citizens' portal. Commissioner Cortés stated that election night
25 reporting on-line worked flawlessly and over 25 million views were recorded to the
26 website. Commissioner Cortés stated that ELECT has been working on in-house software
27 for the electronic pollbook (EPB) solution to replace the vendor supported state solution
28 and the initial testing was successful.

29 The next order of business was the Recount Step by Steps – Final Approval
30 presented by Edgardo Cortés, ELECT Commissioner. Commissioner Cortés stated per
31 the board members request the document was sent to the general registrars and the

32 electoral board members for comment via email. Commissioner Cortés stated that no
33 comments were received at ELECT. Commissioner Cortés requested that the Board give
34 final consideration to the Recount Step by Steps document. Chairman Alcorn inquired if
35 members had any comments on the substance of the document presented and there were
36 none. Chairman Alcorn asked if there was any public comment and there were none. Vice
37 Chair Wheeler moved *that the Recount Step by Steps document as presented be*
38 *approved*. Secretary McAllister seconded the motion and the Board unanimously
39 approved the motion.

40 The next order of business was the Certification of the November 3, 2015, general
41 election presented by Reiko Doğu, Senior Elections Administrator. Ms. Doğu explained
42 the process and the applicable code section, §24.2-679A. Ms. Doğu presented the
43 abstracts to board members and the certificates of elections were signed by board
44 members. Chairman Alcorn asked ELECT to provide an overview of the events of
45 election day.

46 Gary Fox, Elections Supervisor stated there were voting equipment issues in the
47 Commonwealth. Mr. Fox reported that Greene, Washington, Wise, Halifax, and Amherst
48 counties and Norfolk City had voting equipment issues. Mr. Fox noted electronic
49 pollbook issues in Richmond City. Mr. Fox stated that as a result the City of Richmond
50 may have issued the wrong ballot to some voters. Campbell County ran short of ballots in
51 the morning and the vendor, who was on-site, provided a pdf to resolve the issue. Mr.
52 Fox stated that some election officers require additional training on voter identification
53 guidelines and program. Mr. Fox reported that there are canvassing issues among some
54 electoral board members related to how to complete the process. Additional issues related
55 to how to handle the large amount of write-in candidates in some of the localities. Mr.
56 Fox reported that there are no state-wide recounts. Commissioner Cortés thanked the
57 ELECT team for their work related to the election and the certification process.
58 Commissioner Cortés stated that the two localities: Winchester and Virginia Beach Cities
59 were present to discuss their experiences with delivery absentee ballots on time.
60 Commissioner Cortés stated that ELECT will be sending a survey to the localities
61 regarding equipment issues and the findings will be presented at the next board meeting.
62 Chairman Alcorn requested that ELECT included Electronic Pollbook (EPB) questions

63 and rules on regulations that the registrars did not understand on the survey to the
64 localities. Chairman Alcorn asked if a representative from Winchester City was present at
65 the board meeting.

66 Liz Martin, Winchester City General Registrar, approached the podium. Ms.
67 Martin stated that her locality had four late absentee ballots that did not go to the voters
68 the week prior to being sworn-in as general registrar. Ms. Martin stated that the problem
69 was caused by a misprint. The remedy is that a pdf of the proofed ballot could have been
70 used as an attachment for the two ballots associated to the request of military members.
71 Vice Chair Wheeler inquired about the Winchester City Electoral Board; knowing the
72 date, of needing to fill the position of general registrar. Ms. Martin stated that the prior
73 general registrar retired on June 30, 2015. Ms. Martin added that her office is absent a
74 deputy general registrar and the hiring process is underway. SBE members thanked Ms.
75 Martin for her efforts as a newly appointed general registrar and for coming to the
76 meeting. Chairman Alcorn asked if a representative from Virginia Beach was present at
77 the board meeting.

78 Donna Patterson, Virginia Beach General Registrar, approached the podium. Ms.
79 Patterson stated that her locality had 13 ballot styles for the general election and believed
80 that our locality had met the deadlines. Ms. Patterson stated that on the next business day
81 the office noticed an administrative error. Ms. Patterson stated that 35 voters received the
82 wrong ballot style. Ms. Patterson stated that her electoral board members were
83 immediately contacted and an action plan was developed to include notifying ELECT
84 about the situation. Ms. Patterson stated that her remedy and lesson learned was to
85 complete the reconciliation administrative process prior to mailing the absentee ballots.
86 SBE members thanked Ms. Patterson for attending the meeting and explaining the
87 lessons learned.

88 Chairman Alcorn moved *that the Board certify the results of the November 3,*
89 *2015 general elections as presented in the Commonwealth.* Vice Chair Wheeler seconded
90 the motion and without public comment the Board unanimously approved the motion.

91 Chairman Alcorn moved *that the Board recess at 4:05PM.* Secretary McAllister
92 seconded the motion and without further comment the Board voted unanimously to

93 recess. Chairman Alcorn moved that the Board reopen the meeting at 4:20PM. Secretary
94 McAllister seconded the motion. The Board unanimously approved the motion.

95 The next order of business was the Voting Systems Certification presented by
96 Eugene Burton, ELECT Voting Technology Specialist. Mr. Burton stated that the
97 Dominion Voting Systems Democracy Suite 4-14-E voting system was ready for
98 certification for use in election in the Commonwealth. Mr. Burton stated that SBE was
99 provided with the test report and the technical data package was in their working papers.
100 Mr. Burton stated that upon agreement with the test plan, the evaluation was conducted
101 on October 13, 2015 through October 14, 2015, in the Department of Elections offices in
102 Richmond, Virginia. In addition, the system was successfully piloted during an election
103 in Bedford County on November 3, 2015. Mr. Burton stated that the Dominion Voting
104 Systems Democracy Suite 4-14-E voting system successfully completed Virginia State
105 Certification. Chairman Alcorn moved *that the Board certify Dominion Voting Systems*
106 *Democracy Suite 4-14-E voting systems for use in elections in the Commonwealth of*
107 *Virginia, pursuant to the State Certification of Voting Systems: Requirements and*
108 *Procedures*. Vice Chair Wheeler seconded the motion. Chairman Alcorn asked if there
109 was public comment and there was none. The Board unanimously approved the motion.

110 The next order of business was the update on electronic pollbooks presented by
111 Susan Lee, Director of Compliance and Administration. Ms. Lee stated that Virginia
112 Information Technologies Agency (VITA) is conducting vulnerability and penetration
113 scans on four systems currently undergoing the certification process for use in the
114 commonwealth. ELECT has been receiving the reports as the testing occurs and is
115 reviewing the information as it becomes available. ELECT staff is analyzing the
116 information before the consideration of approval is made to SBE. Ms. Lee provided an
117 update and overview of the four systems being tested. Secretary McAllister asked if any
118 of the localities are waiting on a decision from ELECT before purchasing the pollbooks.
119 Ms. Lee stated that two localities: Fairfax County and City of Richmond were awaiting
120 approval. Secretary McAllister asked if any of the localities were present and wanted to
121 comment. Cameron Sasnett, General Registrar of Fairfax County; Kate Hanley, Electoral
122 Board Secretary of Fairfax County; Kirk Showalter, General Registrar of Richmond City;

123 Abel Freewalt, KnowINK vendor representative and David Styles, lobbyists
124 representative provided comment.

125 Ms. Lee stated that the completed reports will be presented at the next board
126 meeting, December 16, 2015 for consideration. Bob Baskette, VITA representative,
127 assured the board members that the data that Ms. Lee's team required to complete the
128 process would be delivered in time for consideration at the next board meeting. Chairman
129 Alcorn requested that when the testing summary reports are received by ELECT that
130 those reports are released to interested parties and the public for consumption. Vice
131 Chair Wheeler left the meeting at 5:00PM and returned at 6:15PM.

132 The next order of business was the SB11 Workgroup update provided by
133 Chairman Alcorn. Chairman Alcorn stated SB11 relates to the electronic return of
134 absentee ballots for active duty military stationed overseas. The workgroup has been
135 meeting over the last couple of months and a draft final report has been provided to SBE.
136 The recommendations of the workgroup will be sent to the general assembly and the
137 governor's office. Chairman Alcorn stated that the workgroup has been discussing the
138 risks and the costs associated with SB11. Chairman Alcorn stated that the final report
139 would be presented by the workgroup at the December 16, 2015, SBE meeting.
140 Commissioner Cortés thank ELECT staff for their support and efforts of the workgroup.

141 The next order of business was the Campaign Finance Violations reports
142 presented by Brooks Braun, ELECT Policy Analyst. Mr. Braun stated that the first Stand
143 by Your Ad complaint was for Sara Ward. Mr. Braun explained the materials associated
144 to the complaint and the disclaimer violation associated to the materials. Mr. Braun stated
145 that staff recommends that SBE should find that Vote Sara Ward has violated the
146 provisions of the Stand by Your Ad and should fine her campaign accordingly in an
147 amount not to exceed \$1000.00. Chairman Alcorn asked if the candidate was present and
148 wished to speak on the issue before the board. Ms. Ward approached the podium. Ms.
149 Ward stated that she was informed of the error and changes were made to the language
150 immediately to conform to the statute. Chairman Alcorn stated that historically a first time
151 offense has a penalty of \$100.00 assessed to the candidate and requested that Mr. Braun
152 document this pattern for constituency. Chairman Alcorn moved *that SBE assess a civil*

153 *penalty of \$100.00 to the Vote Sara Ward campaign.* Secretary McAllister seconded the
154 motion and without further comment the board unanimously approved the motion.

155 The next order of business was the campaign violation for Friends of Mike
156 McMenamin. Mr. Braun stated that ELECT received a complaint about a phone call
157 potentially being generated by the candidate. Mr. Braun stated that ELECT does not
158 present a recommendation on how to handle this complaint due to complexity of the
159 nature and origin of the phone call. Chairman Alcorn and Secretary McAllister stated that
160 the complaint lacked the evidence necessary to substantiate the claim. Chairman Alcorn
161 asked if the candidate was present and wished to speak on the issue before the board. Mr.
162 McMenamin approached the podium and stated that his campaign complied with the law.
163 Chairman Alcorn moved *that the complaint against the Friends of Mike McMenamin be*
164 *dismissed for the lack of evidence.* Secretary McAllister seconded the motion and without
165 further comment the board unanimously approved the motion.

166 The next order of business was the campaign violation for Friends of Monique
167 Miles. Mr. Braun stated that ELECT received a complaint regarding candidate Monique
168 Miles and her print advertisement that did not contain the required Stand by Your Ad
169 disclosure. Board members reviewed the submitted materials. Mr. Braun stated that
170 ELECT recommends that SBE should find that Friends on Monique Miles has violated
171 the provisions of Stand by Your Ad and should fine the campaign accordingly in an
172 amount not to exceed \$1000.00. Mr. Braun stated that historically SBE would fine
173 \$300.00 in total to represent \$100.00 each for the three incidents. Chairman Alcorn asked
174 if the candidate was present and wished to speak on the issue before the board. Ms. Miles
175 approached the podium and stated that error occurred with one of the newspaper
176 advertisement submitted and was correct with the other news outlets. Ms. Miles
177 apologized for the error and hoped that the board would consider that it was a first time
178 violation. Chairman Alcorn moved *that SBE assess a civil penalty of \$300.00 to the*
179 *Friends of Monique Miles campaign.* Secretary McAllister seconded the motion and
180 without further comment the board unanimously approved the motion.

181 The next order of business was the campaign violation for Mark Marshall for
182 Sheriff. Mr. Braun stated that ELECT received a complaint regarding candidate Mark
183 Marshall and his yard signs and banners that were distributed. Also noted in the

184 complaint was a joint advertisement with Georgette Phillips that was printed in a local
185 newspaper absent the required disclosures. Board members reviewed the submitted
186 materials. Mr. Brooks stated that ELECT recommends that SBE should find that Mark
187 Marshall for Sheriff has violated the provisions of Stand by Your Ad and should fine the
188 campaign accordingly in an amount not to exceed \$1000.00. Chairman Alcorn asked if
189 the candidate was present and wished to speak on the issue before the board and the
190 candidate did not respond. Mr. Braun stated that the candidate was notified that this
191 matter would be presented at this board meeting. Mr. Braun noted that Georgette Phillips
192 will appear before the board at a future meeting to have her hearing regarding the joint
193 advertisement. Chairman Alcorn moved *that SBE assess a civil penalty of \$300.00 to the*
194 *Mark Marshall for Sheriff Campaign.* Secretary McAllister seconded the motion and
195 without further comment the board unanimously approved the motion.

196 The next order of business was the campaign violation for Van Fleet for
197 Alexandria Council. Mr. Braun stated that ELECT received a complaint regarding
198 candidate Van Fleet regarding a mailer that was delivered to residents in Alexandria
199 which omitted the required disclosures. Board members reviewed the submitted
200 materials. Mr. Braun stated that ELECT recommends that SBE should find that Van Fleet
201 for Alexandria Council has violated the provisions of Stand by Your Ad and should fine
202 the campaign accordingly in an amount not to exceed \$1000.00. Mr. Braun stated that
203 there were a total of four violations. Chairman Alcorn asked if the candidate was present
204 and wished to speak on the issue before the board and the candidate did not respond. Mr.
205 Braun stated that the candidate was notified that this matter would be presented at this
206 board meeting and that there was a message from Mr. Fleet, left at the ELECT office, that
207 due to the meetings timing had not been responded to by ELECT. Chairman Alcorn
208 recommended that ELECT move this violation to a future board meeting and Mr. Braun
209 complied.

210 The next order of business was the campaign violation for W. Wayne Robertson.
211 Mr. Braun stated that ELECT received a complaint regarding candidate W. Wayne
212 Robertson regarding a flyer that omitted the required disclosures. Board members
213 reviewed the submitted materials. Mr. Braun stated that ELECT recommends that SBE
214 should find that W. Wayne Robertson has violated the provisions of Stand by Your Ad

215 and should fine the campaign accordingly in an amount not to exceed \$1000.00.
216 Chairman Alcorn asked if the candidate was present and wished to speak on the issue
217 before the board and the candidate did not respond. Mr. Braun stated that the candidate
218 was notified that this matter would be presented at this board meeting. Chairman Alcorn
219 moved *that SBE assess a civil penalty of \$100.00 to the W. Wayne Robertson campaign.*
220 Secretary McAllister seconded the motion and without further comment the board
221 unanimously approved the motion.

222 The next order of business was the campaign violation for Kyra Bullock for
223 Circuit Court Clerk. Mr. Braun stated that ELECT received a complaint regarding
224 candidate Kyra Bullock regarding a yard sign that omitted the disclosure. Board members
225 reviewed the submitted materials. Mr. Braun stated that ELECT recommends that SBE
226 should find that Kyra Bullock has violated the provisions of Stand by Your Ad and
227 should fine the campaign accordingly in an amount not to exceed \$1000.00. Chairman
228 Alcorn asked if the candidate was present and wished to speak on the issue before the
229 board and the candidate did not respond. Mr. Braun stated that the candidate was notified
230 that this matter would be presented at this board meeting. Chairman Alcorn moved *that*
231 *SBE assess a civil penalty of \$100.00 to the Kyra Bullock campaign.* Secretary
232 McAllister seconded the motion and without further comment the board unanimously
233 approved the motion.

234 The next order of business was the campaign violation for Teri L. Pace for
235 Supervisor. Mr. Braun stated that ELECT received a complaint regarding candidate Teri
236 L. Pace regarding a flyer that omitted the required disclosures. Board members reviewed
237 the submitted materials. Mr. Braun stated that ELECT recommends that SBE should find
238 that Teri L. Pace has violated the provisions of Stand by Your Ad and should fine the
239 campaign accordingly in an amount not to exceed \$1000.00. Chairman Alcorn asked if
240 the candidate was present and wished to speak on the issue before the board and the
241 candidate did not respond. Mr. Braun stated that the candidate was notified that this
242 matter would be presented at this board meeting. Chairman Alcorn moved *that SBE*
243 *access a civil penalty of \$100.00 to the Teri L. Pace campaign.* Secretary McAllister
244 seconded the motion and without further comment the board unanimously approved the
245 motion.

246 The next order of business was the campaign violation for Supporters of
247 Jacqueline Smith for Clerk of the Circuit Court. Mr. Braun stated that ELECT received a
248 complaint regarding candidate Jacqueline Smith regarding several advertisements that
249 omitted the required disclosures. Board members reviewed the submitted materials. Mr.
250 Braun stated that ELECT does not have a recommendation regarding the complaint.
251 Chairman Alcorn asked if the candidate was present and wished to speak on the issue
252 before the board and the candidate did not respond. Mr. Braun stated that the candidate
253 was notified that this matter would be presented at this board meeting. Chairman Alcorn
254 stated that the phrase “created in house by volunteers for...” needed additional
255 interpretation and requested that Mr. Braun conduct additional research regarding the
256 *code* and the historical interpretation by the board. Chairman Alcorn referred the matter
257 until the next board meeting.

258 Chairman Alcorn stated that the discussion of campaign finance violations should
259 occur before the election with caution that the board does not act as a sounding device for
260 a political campaign. Vice Chair Wheeler stated that dealing with alleged misconduct in
261 the middle of a campaign needs to be addressed when the complaint arrives at ELECT
262 not after the election. Chairman Alcorn asked counsel if receiving the materials
263 electronically prior to an election for review and determination if the violation should be
264 heard at the next board meeting would cause any legal compromise. Ms. Birkenheier
265 stated that receiving the materials electronically would not cause an issue; however
266 selecting certain complaints to act upon may cause issues. Secretary McAllister
267 confirmed with Mr. Braun that additional complaints would be heard at the next board
268 meeting.

269 The next order of business was the Electronic Signatures on Absentee Ballots
270 presented by Edgardo Cortés, ELECT Commissioner. Commissioner Cortés stated that
271 the board stated during the October, 2015 meeting that discussion of this matter would
272 occur today. The department does not have any additional recommendations or proposals
273 to present regarding this matter. Chairman Alcorn stated that there are several options to
274 consider: (i) stay with the status quo, (ii) refer back to where we were, (iii) require the use
275 of the state solution/system, and (iv) develop a new standard for electronic signatures.
276 Chairman Alcorn asked what are the advantages and disadvantages of requiring voters to

277 use the state system. Chairman Alcorn stated that if the outcome, is to look for a new
278 standard for electronic signatures on absentee ballots, it would be beneficial to review
279 similar programs implemented in other states. Chairman Alcorn stated that he would like
280 a briefing on any issues that occurred on absentee ballots with electronic signatures. Vice
281 Chair Wheeler stated that a survey to the electoral boards on any electronic signatures
282 issues should be sent to the elections community.

283 Commissioner Cortés stated that ELECT anticipated the request for information
284 from the board and specifically added the method of request for the absentee ballot into
285 the process. Commissioner Cortés stated that a violations or misuse of the electronic
286 signature program would be referred to the local commonwealth attorneys' office and the
287 survey could ask if any referrals have been made regarding electronic signature
288 violations. Commissioner Cortés stated that the on-line absentee ballot portal and the on-
289 line registration portal have the same parameters. Commissioner Cortés stated that
290 information is being gathered, regarding electronic signatures, through the absentee ballot
291 workgroup and related concerns and questions are being presented to ELECT for
292 analysis. Chairman Alcorn asked that the source of the on-line portals utilized by voters
293 be provided to SBE as well the identification of any problems or issues related to those
294 portals with a discussion to be held at the next SBE meeting. Secretary McAllister
295 requested that ELECT provide an overview of the on-line absentee ballot application
296 process in states that have similar programs.

297 The next order of business was the legal report presented by Anna Birkenheier,
298 Assistant Attorney General and Counsel to SBE and ELECT. Ms. Birkenheier requested
299 a closed session to discuss specific legal matters. Chairman Alcorn asked if there were
300 any public comments and there were none. Chairman Alcorn introduced and welcomed
301 visitor from the Virgin Islands, Caroline Fawkes: Elections Supervisor.

302 Chairman Alcorn moved *that the SBE Board close the meeting to discuss specific*
303 *legal matters requiring the provision of legal advice by legal counsel as authorized by §*
304 *2.2-3711(A)(7) of the Code of Virginia.* Vice Chair Wheeler seconded the motion and
305 without public comment the Board unanimously approved the motion. Chairman Alcorn
306 directed Clara Belle Wheeler, Vice Chair; Singleton McAllister, Secretary; Anna
307 Birkenheier, Assistant Attorney General and SBE Counsel; Commissioner Cortés and

308 Deputy Commissioner Howard to remain with the Board during the closed session.
309 Chairman Alcorn asked Heather Hays Lockerman, Senior Assistant Attorney General and
310 Counsel to SBE and ELECT to participate. The Board went into Executive Session at
311 5:55PM.

312 At 6:35PM Chairman Alcorn *moved to reconvene in open session and a roll call*
313 *vote was taken as required by § 2.2-3712(D) of the Code of Virginia, unanimously*
314 *certifying that during the closed meeting (i) only public business matters lawfully*
315 *exempted from open meeting requirements under this chapter, and (ii) only such public*
316 *business matters as were identified in the motion by which the closed meeting was*
317 *concerned were heard, were discussed or considered.* Vice Chair Wheeler seconded the
318 motion and the Board unanimously approved the motion. Ms. Mansfield performed the
319 roll call vote and all Board Members approved the motion.

320 Chairman Alcorn moved *that the Board adjourn.* Vice Chair Wheeler seconded
321 the motion and without further comment the Board voted unanimously to adjourn. The
322 meeting was adjourned at approximately 6:40PM.

323 The Board shall reconvene on December 16, 2015 at 10:00AM in the General
324 Assembly Building, Richmond, Virginia 23219 – Room C.

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Secretary

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Chair

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Vice Chair

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