

MINUTES

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3 The State Board of Elections Board Meeting was held on Monday, November 28,
4 2011. The meeting was held in the General Assembly Building, Room C, 910 Broad
5 Street, Richmond, Virginia. In attendance, representing the State Board of Elections
6 (SBE) was Charles Judd, Chair; Kimberly Bowers, Vice-Chair; Donald Palmer,
7 Secretary; Joshua Lief, Senior Assistant Attorney General and SBE Counsel; and Justin
8 Riemer, Deputy Secretary. Chairman Judd called the meeting to order at 10:00AM.

9 The first order of business was the approval of minutes from the State Board of
10 Election Board Meetings held on October 18, 2011 & November 8, 2011. After careful
11 review of the Minutes Vice-Chair Bowers noted changes to the minutes. Chairman Judd
12 moved to accept the suggested changes and the Board unanimously approved the revised
13 Minutes.

14 The second order of business was the Secretary's Report delivered by Secretary
15 Palmer. The Secretary's Report is an agenda item for each Board Meeting describing
16 recent developments at SBE. Secretary Palmer reported that SBE received full funding
17 for the Federal Voting Assistance Program grant. Secretary Palmer noted that the grant
18 total of 1.8 million dollars and these monies would improve the ability to process ballots
19 to the military and overseas absentee voters. Secretary Palmer noted that this is a result of
20 collaborating with Microsoft & Democracy Live. Secretary Palmer noted that the grant
21 monies were also allowing SBE to partner with Open Source Digital Voting Foundation
22 to build a new citizen portal that will enable citizens to complete registration and
23 absentee forms via the internet. Secretary Palmer noted that there would also be a
24 partnership with Scytl to research various voting assistance technology and secure
25 electronic ballot returns. This pilot project would target voters in the Wounded Warriors
26 Program. Secretary Palmer noted that program goals would be achieved if these systems
27 were in placed prior to the Presidential Primary. Secretary Palmer introduced David
28 Blackwood, SBE Policy Analyst, who is a recent addition to the SBE team. Secretary
29 Palmer discussed the recent reports on the Virginia State Budget. Secretary Palmer
30 conveyed that SBE would not be excluded from the overall state budget cuts that are
31 pending and SBE Staff has had to propose 2%, 4%, and 6% budget reductions. Secretary

32 Palmer noted that they would be targeting the cost associated with paper ballots and
33 mailings and task technology to perform those functions. Secretary Palmer noted that
34 SBE would try to reduce costs by holding personnel positions open and bring services
35 provided by outside sources inside. Secretary Palmer notes that over the last five years
36 SBE's budget has been cut by more than fifty percent. Secretary Palmer states that some
37 of the reductions have been passed down to the localities and that SBE was tasked with
38 cutting four hundred and eighty two thousand dollars for the current budget. Secretary
39 Palmer thanked the Board Members for being actively present on Election Day,
40 November 2011. Chairman Judd commented that Election Day was without incident
41 which is contributed to the quality of the individuals who are working within the election
42 community. Chairman Judd also welcomed David Blackwood to the SBE team.
43 Chairman Judd expressed concern that the SBE budget continues to be reduced especially
44 with the mandates from the federal government on how to conduct elections. Chairman
45 Judd expressed his gratitude to Secretary Palmer and the SBE staff for pursuing the grant.
46 Secretary Palmer commented that there are federal activities such as the Help America
47 Vote Act, HAVA, that generate funds with specific federal requirements. Secretary
48 Palmer noted that when the federal funds are depleted that the mandates will be still be
49 required.

50 The third order of business was the presentation of the resolution honoring the life
51 and work of Pat Harrington, General Registrar of Virginia Beach, who passed away on
52 September 30, 2011. Chairman Judd invited the attending representatives of the
53 Harrington family to the podium for the presentation. Vice-Chair Bowers recited the
54 resolution to the family and attending audience and presented the resolution to Frank
55 Harrington, Pat Harrington's surviving spouse.

56 The next order of business was to Ascertain the Results of the November 8, 2011
57 General Election pursuant to § 24.2-534 of the Code of Virginia. Matt Abell, Assistant
58 Manager of Election Services, explained the certification process to the Board and SBE
59 staff members. Chairman Judd stated that comments would be taken after the certification
60 process was complete. Terry Ellen Carter, Montgomery County Voter, approached the
61 podium and requested that the election results in Districts A, D, F, and G in Montgomery
62 County be considered void. Ms. Carter expressed that her requests be validated on the

63 basis that it is unknown how many Montgomery County voters received the wrong ballot.
64 Chairman Judd inquired if there was sufficient evidence to withhold certification of the
65 results in the House of Delegates, District 12 and Senate District 21. Joshua Lief, Senior
66 Assistant Attorney General and SBE Counsel, informed SBE Board Members that if a
67 candidate felt that there were improper handling of the election process that the candidate
68 should have taken this matter into court. Joshua Lief noted that it is the responsibility of
69 the candidate to bring complaints to the attention of the State Board of Elections. Joshua
70 Lief added that Montgomery County is under sensor from the SBE and that on Election
71 Day the problem identified and quickly resolved. Chairman Judd, Vice-Chair Bowers,
72 Secretary Palmer, Chris Piper, Matt Abell, and Rose Mansfield partnered to complete the
73 certification of candidates in the November 8, 2011 General Elections. Chairman Judd,
74 Vice-Chair Bowers, and Secretary Palmer concluded the process by signing the
75 Certificates of Election and Chairman Judd declared that the results of the November 8,
76 2011 and General Election were certified.

77 The next order of business was the requests for Temporary Full-Time Status for
78 the General Registrars in Surry and Mathews Counties and for the City of Covington.
79 Deputy Riemer informed Board Members that the Electoral Boards have submitted the
80 required requests that are authorized under Chapter 890, 2011 Acts of Assembly Item
81 80(C). Deputy Riemer noted that these acts authorize the State Board of Elections to
82 approve Temporary Full-Time status to General Registrars who, because of the size of
83 the locality's population, are only funded to work on a part-time status. Deputy Riemer
84 asked the Board Members approve these submitted requests, with one small modification.
85 Deputy Riemer noted the exception of Surry County request for full-time status through
86 July 31, 2012 which should be modified for full-time status through June 30, 2012.
87 Chairman Judd move that the Board approve the requests: from the Electoral Board of
88 Mathews County for funding for the General Registrar for temporary full-time status for
89 the months of February and March of 2012, for the City of Covington for the months of
90 January through May 2012, and for Surry County for the period of January 2, 2012
91 through June 30, 2012. Vice-Chair Bowers seconded the motion and the Board
92 unanimously approved the motion. Chairman Judd asked if there were any comments

93 and Robin Lind, General Electoral Board Association, offered his support of this
94 approved motion.

95 The next order of business was the proposed revision to the Virginia Voter
96 Registration Application Form. Jennifer Thomas, SBE Director of Training, explained
97 that the Virginia Voter Registration Application Form especially Section 203 relating to
98 Fairfax County and Virginia Code § 24.2-105 and § 24.2 -518. Ms. Thomas explained
99 that the proposed changes included adding an explanation and disclaimer to page 1,
100 second paragraph of the Virginia Voter Registration Application Form. Ms. Thomas
101 expressed that additional changes included adding a box “Check if you need assistance in
102 Spanish” on page 3 and rewording the “Check if you have a disability that requires
103 someone to assist you in order to vote” and deleting the line where a voter describes such
104 disability on that same page. Chairman Judd asked if there were any questions and Vice-
105 Chair Bowers inquired about the location of the changes in section 6. Ms. Thomas
106 directed Vice-Chair Bowers to the print at the bottom of page 3. Joshua Leif, SBE
107 Counsel, noted the proposed change relating to the disability was a positive change and
108 suggested that this changed be incorporated into the Absentee Ballot upon its’ next
109 revision. Chairman Judd asked if there were any questions or comments from the
110 audience relating to the proposed changes and with there being none Chairman Judd
111 motioned to accept the proposed changes to the Virginia Voter Registration Application
112 Form. Vice-Chair Bowers moved to accept the changes to the Virginia Voter Registration
113 Form and Secretary Palmer seconded the motion and the Board unanimously approved
114 the motion.

115 The next order of business was the complaint by Don Assaid and Mark Tyson
116 against State Board of Elections and Botetourt County General Registrar Phyllis Booze.
117 Chairman Judd asked if there was any member of the audience that would like to address
118 the Board and Mark Tyson, Virginia voter and supporter of Don Assaid, expressed
119 gratitude for the time allowed to address the Board. Mr. Tyson stated that he felt that the
120 State Board of Elections has failed in it’s charter during this election cycle citing Virginia
121 Code § 24.2-103. Mr. Tyson expressed that he believes that the Board failed Mr. Don
122 Assaid, candidate for supervisor in Valley District, Botetourt County. Mr. Tyson
123 expressed that he believed that SBE failed to provide accurate voter status information.

124 Mr. Tyson expressed those Virginia Code § 24.2-504 states that persons are entitled to
125 have their name printed on the ballot as independent candidates and he believes that Don
126 Assaid fulfilled all of those requirements and was denied access to the ballot. Mr. Tyson
127 expressed that the State Board of Elections had failed to respond to all inquiries and pleas
128 for assistance and ignored the problem. Chairman Judd asked Mr. Tyson to detail what he
129 was seeking from the State Board of Elections while the Board was in session on this
130 date. Mr. Tyson stated that he would like some of the problems to be addressed and be
131 corrected so that future elections do not have the same problems. Secretary Palmer
132 addressed Mr. Tyson with the question: “How many members of the SBE staff had he
133 communicated with about this issue?” Mr. Tyson stated that he had talked with Deputy
134 Riemer, Martha Brissette, Andrea Keeles, and Rose Mansfield. Mr. Tyson further stated
135 that, although he had spoken with these SBE staff members, there has yet to be a
136 response. Chairman Judd reemphasized that the responses Mr. Tyson and Mr. Assaid
137 received from SBE Staff Members are indications that the issues presented were not
138 ignored. Mr. Tyson stated that the Assaid voter petitions were based off of the data
139 presented in the VERIS system on the morning of August 23, 2011. Secretary Palmer
140 informed Mr. Tyson that Botetourt County was complete in the redistricting process on
141 August 17, 2011. Secretary Palmer informed Mr. Tyson that there is supporting
142 documentation supporting the completion of redistricting in Botetourt County. Mr. Tyson
143 asked when the disclaimer was added. Secretary Palmer noted that the disclaimer was
144 added at the request of Don Assaid. Secretary Palmer noted that Don Assaid was the only
145 independent candidate that had any issue getting on the ballot utilizing the SBE process.
146 Mr. Tyson stated that the registrar’s office approved Mr. Assaid’s petition submissions
147 and the circulator of the petitions as a qualified voter. Secretary Palmer informed Mr.
148 Tyson that he has challenged the State Board of Elections to perform a duty that is not
149 within their power and it is the local General Registrar and Electoral Board duties to
150 place a candidate on the ballot. Mr. Assaid states that the General Registrar altered the
151 petitions with “White Out” and that they have brought this to SBE attention and it has
152 been ignored. Secretary Palmer assured Mr. Tyson that SBE is not a part of a conspiracy
153 and that SBE did complete redistricting on August 17, 2011. Secretary Palmer added that
154 each locality within the Commonwealth has completed redistricting in a timely manner

155 and on schedule. Secretary Palmer noted that there is an investigation into this matter and
156 offered to provide the documentary evidence. Joshua Lief, SBE Counsel, stated to Mr.
157 Tyson that he is welcome to his opinion but to state that the situation was ignored is
158 inaccurate. Mr. Lief further explained that the situation was looked into at great detail.
159 Mr. Don Assaid approached the Board and stated that “This is a formal complaint of
160 election tampering and election fraud”. Mr. Assaid stated that the General Registrar
161 approved Doug Gimbert, my circulator, as a qualified circulator and a qualified voter on
162 August 23, 2011. Mr. Assaid stated “she then, very suspiciously, went back and used
163 White Out on the original documents and those documents were altered which is clearly
164 an illegal act”. Mr. Assaid stated that “somebody went to the Electoral Board, which we
165 believe was the Republican Committee Chair, and then went to the General Registrar and
166 approved me as a candidate and qualified as a candidate and then it was released to the
167 press”. Mr. Assaid stated that over the next two days the local Committee Chair went to
168 them and stated that this could not stand and the General Registrar took a registration
169 form from Mr. Gimbert. Mr. Assaid then stated that he took the minutes from the
170 Electoral Board mass meeting. Mr. Assaid then stated that Mr. Gimbert then went to
171 register and he was told by “Suzy Somebody” that he was in the Valley District and that
172 he saw the computer screen showing him, Mr. Gimbert, in the Valley District. Mr. Assaid
173 stated that he asked the General Registrar if they had looked at the other candidates’
174 petitions from two years ago and presented Board Members of the petitions of a rival
175 stating that there were eight signatures added a week after the petition was notarized. Mr.
176 Assaid stated that this is clearly a case of fraud. Mr. Assaid stated that instead of
177 disqualifying the petitions they choose to falsify the document and launch an investigator
178 trying to put my circulator in prison. Mr. Assaid stated that this candidate personal and
179 corporate attorney is the Chairman of the Electoral Board and the Electoral Board
180 Secretary is his Treasurer. Mr. Assaid asked SBE Board Members to censor the General
181 Registrar and the Electoral Board and turn this matter over to the Attorney General for an
182 investigation for Election Tampering and Election Fraud. Secretary Palmer asked Joshua
183 Lief about the assertion of voter fraud and irregularities in this case and the proper place
184 for this to be handled would be in the Commonwealth Attorney’s Office. Joshua Leif
185 stated that this assumption was correct and that the local Commonwealth’s Attorney

186 would handle these allegations. Mr. Assaid stated that the local Commonwealth Attorney
187 was compromised and that he went to him on this matter and he was told that this was not
188 viable. Joshua Lief inquired of Mr. Assaid if he was referring to Mr. Joel Branscom and
189 Mr. Assaid stated that this was correct. Mr. Assaid stated that Mr. Branscom is
190 compromised in this matter which is why we are asking the Attorney General to
191 investigate this matter. Secretary Palmer stated that he understood that there is an
192 investigation into this matter. Mr. Assaid reputed this stating that the investigation was to
193 see if they could charge Doug Gimbert into falsifying a signed affidavit. Joshua Lief
194 commented that since Mr. Assaid was aware of that fact was he also aware of the names
195 of the individuals conducting this investigation. Mr. Assaid stated that he knew the name
196 of the investigator to be Dick Trodden and that he was meeting with Mr. Trodden
197 tomorrow. Mr. Lief advised Mr. Assaid that he should speak to Mr. Trodden about this
198 matter. Mr. Assaid stated that Mr. Trodden had informed him that this was not the scope
199 of his investigation. Chairman Judd asked counsel to give the code that would support
200 given the SBE Board the power to conduct the investigation. Mr. Lief stated that under
201 Virginia Code § 24.2 –104 this Board could make a request to open an investigation into
202 this matter. Mr. Lief inquired of Mr. Assaid if a lawsuit had been filed. Mr. Assaid stated
203 that they were going to file and then decided to withdraw the lawsuit. Mr. Assaid further
204 explained that he and Mr. Tyson drove to Richmond, SBE, on October 31, 2011, without
205 an appointment. Mr. Assaid stated that we understood that meetings were occurring and
206 we informed Rose Mansfield that we would be available all day. Mr. Lief then asked for
207 a clarification that Mr. Assaid Attorney was Mr. Williams. Mr. Assaid stated that was
208 correct. Secretary Palmer responded by stating that at least five members of the SBE staff
209 discussed this with individuals and Mr. Assaid and that Mr. Assaid's visit was
210 unannounced while SBE was preparing for an election, without an appointment, desiring
211 to discuss issues that had been previously addressed. Secretary Palmer noted that after
212 Mr. Assaid was informed that there would not be an opportunity to meet on that date that
213 Mr. Assaid continued to stay in the building. Secretary Palmer informed Mr. Assaid that
214 he contacted the Mr. Assaid's lawyer to inform him of the situation and that legal counsel
215 apologized for Mr. Assaid and stated that they were not aware of his pending visit. Mr.
216 Assaid thanked the Board Members for their time.

217 Chairman Judd then asked if there was any other business to come before the
218 Board. Mr. John Roger McCauley, resident of Christiansburg, informed the Board that he
219 had previously spoke before past SBE Board Members regarding an investigation
220 regarding the Montgomery County General Registrar's Office. Mr. McCauley expressed
221 that he believes that there is a serious non-performance issue with the General Registrar
222 in Montgomery County and would like this Board to follow the recommendations of
223 previous Boards and send a team into the General Registrar's Office to investigate the
224 activities of the General Registrar. Chairman Judd stated that Mr. Lief, SBE Counsel, has
225 advised the Board Members on actions required. Chairman Judd stated that the current
226 SBE Board has issued a censor to the Montgomery County Electoral Board and to the
227 General Registrar. Chairman Judd asked what additional actions Mr. McCauley would
228 like initiated. Mr. McCauley stated that due to recent activity within the office of the
229 General Registrar of Montgomery County. Secretary Palmer expressed gratitude to Mr.
230 McCauley for taking an active part in the electoral process and for taking the time to
231 attend local and state meetings. Chairman Judd then asked if there was any other business
232 to come before the Board.

233 Terry Ellen Carter, Montgomery County Voter, approached the podium and
234 expressed concerns over Randy Wertz, Montgomery County General Registrar's recent
235 performance in carrying out his assigned duties as registrar. Ms. Carter provided several
236 incidents that she said were cause for concerns during the recent elections. Ms. Carter
237 stated that as a voter in Virginia she is concerned that the results of the election are
238 distorted due to the mishandling of ballots and the general election laws. Ms. Carter
239 stated that Mr. Wertz and the Montgomery County Electoral Board are incompetent.
240 Secretary Palmer suggested that SBE Staff Members would meet to ascertain the issues
241 and to develop a training protocol. Secretary Palmer stated that he did not see any
242 evidence of fraud or election tampering. Ms. Carter appealed to the Board to vote on
243 additional sanctions. Vice-Chair Bowers stated that we did vote on this issue in the past.
244 Vice-Chair further stated that the appropriate actions have been taken and have been
245 heard by all current SBE Board Members. Chair Judd expressed his gratitude to Ms.
246 Carter for taking the time to attend the Board Meeting to share her concerns. Chairman
247 Judd stated that he wanted to thank the gentlemen from Botetourt County and assured

248 them that everything that was said will be taken under advisement and placed in the
249 hands of the proper authorities.

250 Chairman Judd then asked if there was any business to come before the Board for
251 the Good of the Order. Joshua Lief informed the Board Members that there was a lawsuit
252 in connection with a House of Delegates race, *Osborne vs. Palmer*, and that it is public
253 record that the suit has been filed. Mr. Lief stated that the Attorney General's Office was
254 preparing a response and filing the papers today saying that the case is mute. With there
255 being none Chairman Judd announced that they would began signing the Certificates of
256 Elections.

257 Chairman Judd then asked if there was any business to come before the Board for
258 the Good of the Order and with there being none Secretary Palmer then made a motion to
259 adjourn. Chairman Judd seconded the motion and the Board unanimously approved the
260 motion. The Board shall reconvene on December 28, 2011 at 10:00AM. Chairman Judd
261 asked for any further public comment. There being none, the meeting was adjourned at
262 approximately 12:45PM.

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