

1 MINUTES

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3 The State Board of Elections board meeting was held on Friday, September 8, 2017.  
4 The meeting was held in the East Reading Room in the Patrick Henry Building in  
5 Richmond, Virginia.

6 In attendance, representing the State Board of Elections (the Board) were James  
7 Alcorn, Chairman; and Clara Belle Wheeler, Vice-Chair. Singleton McAllister, Secretary,  
8 was unable to attend in person and was phoned in. Also in attendance, representing the  
9 Department of Elections (ELECT), was Edgardo Cortés, Commissioner and Anna  
10 Birkenheier, Assistant Attorney General. Chairman Alcorn called the meeting to order at  
11 2:38PM.

12 The purpose of the meeting was to discuss the direct-recording electronic (DRE)  
13 voting equipment review summary provided to the Board by the Virginia Information  
14 Technologies Agency (VITA). Chairman Alcorn explained part of the meeting would take  
15 place during a closed session where VITA employees would brief the Board on their review  
16 and some audience members would be asked to leave. Once the closed session was  
17 finished, the meeting would be open to the public once again. Vice Chair Wheeler stated  
18 some Electoral Board (EB) members and General Registrars (GR) requested to be present  
19 for the closed session as they were allowed to be present during a decertification discussion  
20 in the past under the oversight that they not speak of what was discussed during the closed  
21 session.

22 The Board then phoned in Secretary McAllister, who was unable to be present as  
23 she was in California on business. Vice Chair Wheeler *motioned to include the Secretary*  
24 *on a long distance telephone call.* Chairman Alcorn seconded the motion and the motion  
25 passed unanimously.

26 The Chairman recalled one representative from each impacted locality was allowed  
27 to stay during the closed session as long as the information is not shared outside the room.  
28 Ms. Birkenheier questioned if the Board would differentiate between a legal counsel  
29 portion of the closed session, and the Chairman replied yes.

30 Chairman Alcorn said he spoke with people on all levels of government, and all  
31 agreed it is the duty of the Board and ELECT to ensure confidence in the electoral process;

32 reviewing voting equipment for security, efficiency, and usability is part of that duty. The  
33 Chairman noted if the Board votes to decertify (DRE) machines then localities will need  
34 to replace their voting equipment quickly. If the Board chooses not to decertify, the Board  
35 will be aware of possible security concerns going into the November General Election.  
36 Chairman Alcorn shared that the Board had not received the VITA security report until  
37 earlier that week. Vice Chair Wheeler stated that the first communication she received was  
38 a phone call from Commissioner Cortés on Tuesday, September 5, and that she had no  
39 other contact with the state or ELECT otherwise. The Vice Chair also said she spoke with  
40 most, if not all, of the registrars who could be impacted.

41 Chairman Alcorn then *moved the Board go into closed session to discuss 1) a*  
42 *briefing and specific details regarding VITA's equipment testing and voting system security*  
43 *pursuant to §24.2-625.;1 and 2) consultation with legal counsel regarding specific legal*  
44 *matters requiring the provision of legal advice as authorized by §2.2-3711, subparagraphs*  
45 *A8. Vice Chair Wheeler seconded the motion and the motion passed unanimously.*

46 The meeting entered closed session. Those permitted to stay identified themselves  
47 as: Edgardo Cortés, Commissioner; Clara Belle Wheeler, Vice Chair; James Alcorn,  
48 Chairman; Singleton McAllister, Secretary; Anna Birkenheier, Office of the Attorney  
49 General; John Daniel, Office of the Attorney General; John Crab, VITA; Mike Watson,  
50 VITA; Matt Davis, ELECT; Michelle White, representing Culpeper County; Robin Lind,  
51 representing Falls Church City; and Bill Jenkins, Sussex County.

52 The meeting opened to the public at 4:54PM. Chairman Alcorn called for a roll  
53 call vote to *certify that during the closed meeting 1) only public business matters accepted*  
54 *for open meeting requirements under this chapter; and 2) only such business matters as*  
55 *were identified in the motion identified by which the closed meeting was concerned were*  
56 *heard, discussed, or considered.* Vice Chair Wheeler voted yea. Secretary McAllister  
57 voted yea. Chairman Alcorn voted yea.

58 Chairman Alcorn recounted the discussion held during closed session. The Board  
59 received a briefing from VITA and ELECT staff regarding the security and vulnerabilities  
60 of voting equipment in use in Virginia. Two types of security risks were discussed. The  
61 first risk concerned physical access from a malicious voter in a polling place on Election  
62 Day and the second concerned electronic access to voting systems and the ability to corrupt

63 the systems in advance of Election Day. Chairman Alcorn stated these concerns had to do  
64 with DREs, as there is no paper trail to research the validity of the votes after Election Day  
65 if were someone concerned about improper access to the voting equipment either on  
66 Election Day or through electronic means. The Board planned to discuss the operational  
67 and logistical issues to replacing any voting machines, should the Board choose to  
68 decertify, in order to put as little financial and physical burden on localities as possible.  
69 Chairman Alcorn asked Commissioner Cortés to review what ELECT has done to work  
70 with localities to prepare for this possible transition.

71 Commissioner Cortés said ELECT informed localities they would be working with  
72 VITA to conduct the security review and urged localities to begin transitioning to new  
73 equipment. ELECT kept in contact with the four certified voting equipment vendors in  
74 Virginia about the possible decertification and security concerns. The vendors assured  
75 ELECT they had sufficient inventory on hand, as well as sufficient staffing to assist  
76 localities with training and delivery. The vendors worked with localities to figure out  
77 financing, as a new fiscal year had already begun and new equipment could be an  
78 unbudgeted expense. The vendors provided localities with options such as the removal  
79 and disposal of decertified machines. Based on feedback from potentially impacted  
80 localities, ELECT contacted the local governing bodies in those localities to urge them to  
81 work with election officials through this process. A number of localities held equipment  
82 fairs so voters could try new potential voting equipment and provide feedback.

83 Commissioner Cortés noted vendors were keenly aware of budget concerns, and  
84 offered solutions, including lease-to-own options, where localities could lease equipment  
85 for the November general and later put the cost of the lease towards the purchase price.  
86 Other solutions included offering trade-in costs for old equipment, delayed payment  
87 options, and payment plans. The vendors offered a number of options for training election  
88 officials on the new equipment.

89 Chairman Alcorn asked about ballot proofing, which was currently being  
90 conducted at ELECT. The Chairman asked if there would be adjustments made to the  
91 schedule for localities who would be impacted by decertification. Commissioner Cortés  
92 informed the Board that a communication was sent out to the potentially impacted localities  
93 about an extension for ballot proofing. The Commissioner stated that when localities

94 choose a vendor to work with, the vendor will prioritize the design of that locality's ballot  
95 styles. Chairman Alcorn asked if the ballot printers are prepared to meet the extra printing  
96 demand, and the Commissioner replied they were.

97 Vice Chair Wheeler asked how many localities have not negotiated with a vendor  
98 to buy or lease a specific unit. Commissioner Cortés said that as of now, there are twelve  
99 localities with no plans to buy or lease new voting equipment, seven localities that have  
100 signed contracts, and three that have selected which machines to use but are in contract  
101 negotiations. Vice Chair Wheeler asked if the twelve localities who have no plans in  
102 regards to voting equipment are geographically close to one another. Commissioner Cortés  
103 directed the Board to a map provided in the board materials and was available on ELECT's  
104 website. Chairman Alcorn clarified the localities highlighted on the map are the twenty-  
105 two impacted by possible decertification. The Commissioner stated the twenty-two include  
106 those that have signed contracts, those who are in contract negotiations, and those who  
107 have not made plans for new equipment. Vice Chair Wheeler requested the Board be  
108 informed of which twelve localities have not made plans, and the Commissioner said  
109 ELECT will send them that information.

110 Vice Chair Wheeler asked when ELECT first spoke to the potentially impacted  
111 localities. Commissioner Cortés replied that in the beginning of August, ELECT reviewed  
112 VERIS information provided by the localities and began contacting localities that indicated  
113 use of the DREs in question. Vice Chair Wheeler asked when ELECT had the first  
114 conference call with the voting equipment vendors and the Commissioner stated the call  
115 took place in the beginning of August. The Vice Chair voiced regret at not knowing about  
116 this issue in the beginning of August so she could have been of more help.

117 Secretary McAllister asked what steps will be taken next procedurally to ensure  
118 that localities that still need new equipment are contacted; the Secretary also asked how  
119 ELECT will help these localities in that regard and if the Commissioner is confident that  
120 all of this can be done within the limited time frame before the election. The Commissioner  
121 noted the answer to those questions would depend on the Board's decision to decertify, and  
122 that ELECT recommends decertification of all DREs in the Commonwealth.

123 Commissioner Cortés stated if the Board decides to decertify, ELECT would  
124 immediately send out notice to all localities and remind impacted localities to move

125 forward with equipment to replace the decertified equipment. ELECT would also send a  
126 communication to the voting equipment vendors, notifying them which localities will need  
127 new equipment. The Commissioner stated ELECT is very confident, notably after dealing  
128 with a similar situation with the decertification of machines two years prior with shorter  
129 notice. The Commissioner noted the steps taken by EBs, GRs, and the vendors to prepare  
130 for the possibility of decertification.

131 Mike Watson, VITA, stated VITA's security review of the voting equipment found  
132 potential security vulnerabilities that have the potential to compromise the systems.  
133 Chairman Alcorn asked for a summary of what the review found. Mr. Watson stated the  
134 three objectives of the review: to determine the disruption of the integrity of the voting  
135 data, the disruption of the voting systems, or if the election results could be modified.  
136 VITA used a defined process to determine or identify any vulnerabilities, and leveraged  
137 existing knowledge that was available publicly, and ran tests on the equipment. VITA  
138 assessed that, hypothetically, a malicious voter could walk up to the voting equipment and  
139 access information without specific electrical engineering-style knowledge.

140 Vice Chair Wheeler asked when VITA began testing. Mr. Watson stated VITA  
141 received the equipment on August 14, 2017, with different pieces of the equipment coming  
142 in over time. Mr. Watson estimated VITA had two-and-a-half weeks to test the equipment.

143 The meeting then opened to public comment. Jason Corwin, Mecklenburg County  
144 GR, noted the issue with DREs became public from DefCon, a national convention of  
145 hackers, which discovered possible vulnerabilities in the technology. Mr. Corwin noted  
146 that while DefCon was able to gain access to the machines, they were not able to change  
147 any voting results and therefore were not able to hack the equipment's software. Mr.  
148 Corwin voiced support for optical scan voting machines, but urged the Board not base to  
149 their decision on the idea that the equipment was hacked. Chairman Alcorn noted this is  
150 why ELECT took the equipment to VITA to conduct a separate security review.

151 Alex Blakemore, Virginia Verified Voting, commended the Board, ELECT, and  
152 VITA for running a security review. Mr. Blakemore noted Wi-Fi access is not necessarily  
153 the only way to find vulnerabilities within the machines, reviewing physical means those  
154 with malicious intents can use to attempt to access the equipment. Mr. Blakemore added  
155 that universities and research facilities also found physical means which could provide

156 access to the equipment to change election results. Mr. Blakemore stated California, Ohio,  
157 and Pennsylvania all decertified DREs after conducting similar security reviews. Mr.  
158 Blakemore acknowledged the burden decertifying could put on localities, but urged the  
159 Board to decertify after hearing the potential security concerns.

160 Greg Riddlemoser, Stafford County GR, stated the General Assembly declared the  
161 Commonwealth a paper ballot state, and stated the localities should comply. Mr.  
162 Riddlemoser noted the Board and ELECT require an annual certification of the security  
163 aspects at the locality level. Mr. Riddlemoser asked the Board to decertify in compliance  
164 with the General Assembly and because the Board cannot certify, at the local level, the 1)  
165 physical security of election equipment, and 2) the electronic security of election  
166 equipment. Mr. Riddlemoser urged the Board not to decertify because of what the security  
167 review found, but rather to decertify because DREs are not a paper based system and  
168 because ELECT cannot certify, on a local level, the security of DREs. Mr. Riddlemoser  
169 stated without the ability to reconstruct an election through use of a paper trail, it is not  
170 possible to do certain processes like recounts. Mr. Riddlemoser also urged the Board to  
171 consider and review elements in the state security plan at the local level. Vice Chair  
172 Wheeler agreed with the need to review the state security plan.

173 Michelle White, Prince William County GR, offered to any locality that goes with  
174 the same voting equipment as Prince William County, a full library of training videos that  
175 she would be happy to share. Ms. White also offered the locality's support in ballot printing  
176 and other matters an impacted locality may face as they transition away from DREs. Ms.  
177 White delivered a letter to the Board in regards to Leslie Williams, Election Administration  
178 and Education Manager at ELECT, and the improved ballot proofing process she  
179 developed. Ms. White recognized the positive impact the new process and Ms. Williams  
180 had on localities' ballot proofing processes.

181 Katie Boyle, Director of Government Affairs at the Virginia Association of  
182 Counties (VaCo), asked the Board, if DREs are decertified, to continue to advocate for  
183 financial assistance for impacted localities.

184 Chairman Alcorn read the following resolution: *Whereas one of the fundamental*  
185 *statutory principles that guides the work of both the Virginia State Board of Elections and*  
186 *the Virginia Department of Elections is to supervise and coordinate the work of county and*

187 *city electoral boards to obtain uniformity in their practices and procedures, in legality and*  
188 *purity in all elections; and whereas an essential component of these guiding statutory*  
189 *principles is to ensure, to the best of their ability, that voting is done in a manner that*  
190 *reflects that requisite purity; and whereas an integral component of achieving purity in*  
191 *elections is the equipment used to record accurately the votes of Virginia citizens when*  
192 *they exercise their right to vote in casting a ballot; and whereas certain voting equipment,*  
193 *namely direct-recording electronic, or DRE, devices, has been investigated as a result of*  
194 *allegations regarding this equipment's integrity in recording and maintaining accuracy in*  
195 *voting and storage of individual votes; and whereas in response to inquiry, the State Board*  
196 *and the Department have thoroughly examined allegations regarding the integrity of those*  
197 *voting machines, including discussion with localities, other jurisdictions' experience with*  
198 *identical machines, and importantly, sought the advice and guidance of the Virginia*  
199 *Information Technology Agency; and whereas VITA has indicated that, based on their*  
200 *testing and analysis of third-party reports, it appears that there is a reasonable possibility*  
201 *of compromise of the voting machines at issue; and whereas VITA further concludes the*  
202 *DREs analyzed all exhibited a range of demonstrated, documented, or potential*  
203 *vulnerabilities that materially impact the integrity of the voting process, availability to the*  
204 *voting systems, or integrity of election results; and whereas the continued use of voting*  
205 *equipment that may not maintain the purity of elections and sustain the integrity of votes*  
206 *of citizens of Virginia is not acceptable, now therefore, let it be resolved that pursuant to*  
207 *§24.2-629 of the Code of Virginia and the authority granted as the State Board of Elections*  
208 *therein, the State Board of Elections hereby decertifies the use of direct-recording*  
209 *electronic devices as of September 8, 2017. Be it further resolved that the Department of*  
210 *Elections shall work cooperatively with all localities affected by this decision to ensure the*  
211 *replacement of the decertified equipment in a timely way so as not to disrupt statewide*  
212 *elections to be held on November 7, 2017.*

213 Secretary McAllister seconded the motion. Vice Chair Wheeler stated she has been  
214 a strong proponent of paper ballots and has urged for transition to optical scan voting  
215 equipment. The Vice Chair acknowledged that some localities may not have transitioned  
216 from DREs earlier due to the financial burden. Vice Chair Wheeler stated she came to the  
217 meeting intending not to decertify, but after receiving the security briefing from VITA in

218 closed session has decided to vote to decertify. The Vice Chair said she originally did not  
219 intend to decertify for lack of information, and asked ELECT to continue to improve  
220 communication between ELECT, the Board, and localities, in order to best serve the  
221 localities and disseminate information.

222 During the roll call vote, Vice Chair Wheeler voted yea. Secretary McAllister voted  
223 yea. Chairman Alcorn voted yea. The motion passed unanimously.

224 Linda Staiger, a candidate for School Board in the Columbia district of Fluvanna  
225 County, asked the Board for an extension of filing for her statement of economic interest  
226 (SOEI). Ms. Staiger shared that when she initially decided to run for office, she was  
227 confused about some of the candidate requirements. Ms. Staiger filed a financial disclosure  
228 statement, along with the required petitions, in June, rather than the required SOEI. Ms.  
229 Staiger asked the Fluvanna County GR to alert her to any requirements she may have been  
230 missing, and stated the GR accepted her financial disclosure statement in lieu of an SOEI  
231 and certified Ms. Staiger as a candidate. In June, an extension for the deadline to fulfill  
232 any missing requirements was given to candidates— however, since Ms. Staiger was in the  
233 system as a certified candidate, she did not receive this extension despite unknowingly  
234 missing her SOEI. On Monday, September 4, the Fluvanna County GR notified Ms.  
235 Staiger of the mistake and Ms. Staiger sent the GR the completed SOEI that day. The GR  
236 informed her that she must request an extension and Ms. Staiger sent Commissioner Cortés  
237 an email. The Commissioner denied Ms. Staiger the extension. When Ms. Staiger  
238 explained the situation further, the issue was referred to the Fluvanna EB, and then referred  
239 to the State Board.

240 Vice Chair Wheeler asked if Ms. Staiger met with the Fluvanna GR before filing  
241 any paperwork and if the GR provided Ms. Staiger with a checklist of the requirements for  
242 candidates. Ms. Staiger confirmed she did in April, and noted the checklist said the SOEI  
243 was listed as “if required,” which led to her confusion. The Vice Chair asked if Ms. Staiger  
244 went to the state website to download the required forms, and Ms. Staiger said yes. Vice  
245 Chair Wheeler asked where she found the financial disclosure form, as it is not on the  
246 website. Ms. Staiger was unsure due to finding it in April and forgetting since. Chairman  
247 Alcorn stated the Board would need to talk to Ms. Birkenheier for counsel. The Chairman  
248 stated because there was an extension to candidates who were missing required documents



249 in June, and because of an administrative error Ms. Staiger was not granted that extension,  
250 the Board would need to decide if they could grant Ms. Staiger a ten-day extension without  
251 having to grant an extension to all other candidates. The Chairman pointed out the  
252 difficulty of the decision, due to the proximity to the election.

253 Chairman Alcorn moved *the Board of Elections close the meeting to discuss*  
254 *specific legal matters requiring the provision of legal advice by legal counsel as authorized*  
255 *by §2.2-3711A7.* Vice Chair Wheeler seconded the motion, and the motion passed  
256 unanimously.

257 The meeting opened to the public at 5:14PM. The Board took a roll call vote,  
258 certifying that only such business matters as identified by the motion by which the closed  
259 meeting was concerned were heard, discussed, or considered, and only public business  
260 matters lawfully exempted from open meeting requirements under this chapter were  
261 concerned, heard, discussed, or considered. Vice Chair Wheeler voted yea. Secretary  
262 McAllister voted yea. Chairman Alcorn voted yea. The motion passed unanimously.

263 Chairman Alcorn informed Ms. Staiger the Board discussed the issue, and it is the  
264 Board's interpretation of the Code that the Board does not have the authority to grant an  
265 exception in retrospect to the ten-day extension which occurred in June. The Chairman  
266 stated the Board could grant an extension, but would have to grant the extension to all  
267 candidates. Due to the proximity to the election, the Board was not capable of granting  
268 such an extension.

269 Commissioner Cortés informed the Board ELECT sent out email notice to the  
270 impacted localities of the Board's decision to decertify DREs.

271 Chairman Alcorn then moved to adjourn the meeting. Vice Chair Wheeler  
272 seconded the motion, and the motion passed unanimously. Chairman Alcorn then  
273 adjourned the meeting. The meeting was adjourned at approximately 5:18PM. The Board  
274 did not set the date and time of its next meeting.

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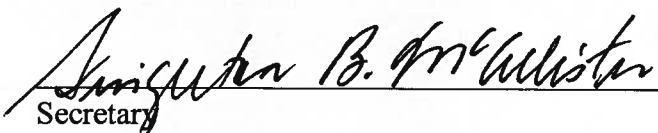
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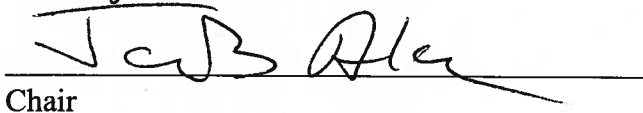
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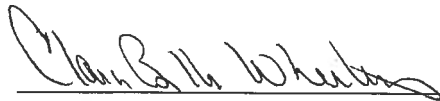
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Secretary

  
Chair

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Vice Chair