

1 MINUTES

2
3 The State Board of Elections board meeting was held on Thursday, September 20,
4 2018 in Senate Room 3 of the Virginia State Capitol, Richmond, Virginia. In attendance:
5 James Alcorn, Chairman, Clara Belle Wheeler, Vice Chair, and Singleton McAllister,
6 Secretary, represented the State Board of Elections ("The Board"). On behalf of the
7 Department of Elections ("ELECT") was Christopher E. "Chris" Piper, Commissioner, and
8 Jessica Bowman, Deputy Commissioner. In attendance, representing the Office of the
9 Attorney General ("OAG"), was Heather Hays Lockerman, Assistant Attorney General.
10 Vice Chair Wheeler called the meeting to order at 11:44 AM.

11 The first order of business was the Commissioner's report, presented by
12 Commissioner Piper. The Commissioner said that Friday, September 21, was the start of
13 absentee voting. Tuesday, September 25, was National Voter Registration Day, and the
14 Commissioner shared that on November 1, ELECT staff would be participating in "On the
15 Square," with an "All Things Elections" table that would have information about
16 registering to vote, becoming an election official, and more. Commissioner Piper
17 recognized the hard work of Gail Henderson and Tanya Pruett, Registrar Liaisons with
18 ELECT, who organized, staffed, and advertised the events. Commissioner Piper said that
19 October 15 was the close of books for voter registration.

20 On Monday, September 10, the Joint Legislative Audit and Review Commission
21 ("JLARC") released their report on ELECT. JLARC was asked by the General Assembly
22 to audit the agency, and their report included recommendations that ELECT staff was
23 currently reviewing and implementing where able. The Commissioner discussed
24 Hurricane Florence, the side effects of which hit various parts of Virginia. The
25 Commissioner thanked Jason Corwin, Mecklenburg General Registrar/Director of
26 Elections ("GR/DOE"), for his help in ensuring localities were up and running during and
27 after the storm. Commissioner Piper also thanked ELECT staff for their dedication and
28 hard work leading up to the November general election.

29 Chairman Alcorn asked the Commissioner if there was anything in the JLARC
30 report that came as a surprise. Commissioner Piper said that JLARC staff was courteous
31 and professional, and worked while acknowledging and respecting ELECT's restricted

32 timelines with election deadlines; JLARC also ensured that the agency was informed
33 throughout the audit process, so nothing in the report was surprising. Chairman Alcorn
34 acknowledged items that had captured media attention, including issues with the Virginia
35 Elections Registration and Information System (“VERIS”), and list maintenance. The
36 report also discussed issues with management of the agency, but noted improvements under
37 Commissioner Piper’s leadership. The Chairman agreed with JLARC’s reports of political
38 bias with the agency’s previous administration, and stated that both ELECT and the Board
39 had to remain nonpartisan in order to do their jobs; the Chairman said that political bias
40 did not seem to be an issue with the change in administration, and thanked Commissioner
41 Piper and ELECT staff for their hard work.

42 Vice Chair Wheeler commended JLARC’s process of interviewing the elections
43 community thoroughly. The Vice Chair noted that the issues with VERIS were particularly
44 worrying, as GRs rely heavily on the system to do their jobs. The Vice Chair also discussed
45 JLARC’s comments regarding list maintenance, and said that ELECT has to work hard to
46 ensure that voter lists are accurate. Vice Chair Wheeler agreed with the Chairman on the
47 importance of nonpartisanship within the elections community.

48 The next order of business was the approval of minutes. Secretary McAllister
49 moved *the Board approve the August 15, 2018 minutes*. Vice Chair Wheeler seconded the
50 motion. Chairman Alcorn asked if the risk-limiting audit (“RLA”) PowerPoint
51 presentation was going to be added to the finalized minutes, and ELECT staff affirmed it
52 would be. Vice Chair Wheeler added that in addition to Commissioner Piper and Deputy
53 Commissioner Bowman attending the Voter Registrar’s Association of Virginia’s
54 (“VRAV”) annual meeting earlier in the month, the Vice Chair attended as well, and asked
55 the minutes be changed to reflect that. ELECT staff agreed to do so. The motion passed
56 unanimously.

57 The next order of business was a request from the Loudoun County Electoral Board
58 (“EB”) to pilot Demtech’s BallotDNA for use in the November 6, 2018 General Election,
59 presented by Eugene Burton, ELECT’s Voting Technology Coordinator. Mr. Burton
60 explained that ELECT received a written request from the Loudoun County EB to pilot
61 BallotDNA for UOCAVA voters. This software would allow the locality to send a voter
62 an email with multiple attachments, including the ballot— which would still be returned

63 by mail. The technology would allow the locality to see where in the process the voter
64 was, and could send the voter reminders. Chairman Alcorn asked if the ballot system had
65 already been certified by the Board. Mr. Burton said no, and that this would be a pilot.
66 The Chairman clarified that the pilot was part of the process before certification, and Mr.
67 Burton said that it was. Chairman Alcorn asked if Mr. Burton had any concerns about the
68 use of the system, and Mr. Burton said he didn't. Chairman Alcorn asked if the technology
69 had been used in other states. Ricky Keech, the Loudoun County GR/DOE, stated that it
70 was being piloted in other states, and that the technology would simplify the process for
71 the voter. Vice Chair Wheeler asked if the technology was for overseas voters, and Mr.
72 Keech said it was for overseas voters and for military voters. Chairman Alcorn moved that
73 *the Board adopt the request to allow the County of Loudoun Electoral Board to pilot*
74 *Demtech's BallotDNA for use in the November 6, 2018 General Election.* Secretary
75 McAllister seconded the motion, and the motion passed unanimously.

76 The next order of business was the full RLA report, presented by James Heo,
77 ELECT's Confidential Policy Advisor. Mr. Heo presented the full report of the pilot RLA,
78 which included a thorough review of the process and findings of the City of Fairfax pilot
79 audit. The report also included ELECT's plan moving forward with statewide RLAs. Mr.
80 Heo said that ELECT planned to conduct pilots in larger localities and to use methods like
81 imprinting to improve the process. ELECT also planned to do cross-jurisdictional audits
82 with multiple localities. Mr. Heo said that after the November election, ELECT would
83 review audit proposals and randomly select localities, as outlined in the Code of Virginia.
84 Chairman Alcorn thanked Mr. Heo for the report's thoroughness.

85 Vice Chair Wheeler noted that Michele White, Prince William County GR/DOE,
86 had previously volunteered her locality to run the pilot RLA, and asked if Ms. White had
87 any comments to make. Ms. White declined. Secretary McAllister stated that risk
88 management was very important, and thanked Mr. Heo, the City of Fairfax staff, and
89 ELECT staff for the work done.

90 Greg Riddlemoser, Stafford County GR/DOE, told the Board that very little input
91 from Virginia's elections community went into the pilot RLA. Mr. Riddlemoser stated
92 most of the work was from third party organizations, and said it was important to get input
93 from Virginia's election officials as they were the ones actually conducting audits. Mr.

94 Riddlemoser also asked the Board to consider that a recount should count as a post-election
95 audit. Mr. Riddlemoser said it was in the Board's authority to set the guidelines for audits
96 in the future. Chairman Alcorn said it was ELECT that had the authority to set guidelines,
97 but thanked Mr. Riddlemoser for his comments, and asked Mr. Heo to take the comments
98 into consideration in moving forward with RLA planning. Vice Chair Wheeler agreed with
99 Mr. Riddlemoser, and encouraged participation of local election officials over third party
100 organizations.

101 The next order of business was Stand By Your Ad ("SBYA") hearings, presented
102 by Arielle A. Schneider, ELECT Policy Analyst. The first complaint was against
103 Alexandrians for Accountability at City Hall. The complaint was about a flyer, which
104 appeared in every polling location in Alexandria prior to the primary. Ms. Schneider said
105 that in a letter from the group's attorneys, the attorneys stated that this was a group of
106 individuals who organized themselves to accomplish a common purpose. Ms. Schneider
107 stated the group spent over \$200, which was the aggregate amount required to invoke their
108 responsibility to provide proper disclosure. The endorsements were posted on Facebook
109 around June 6, and posted on their website as well as on the flyers. Ms. Schneider read
110 excerpts of the explanation provided by the group, which included the aggregate amount
111 spent by the candidates on adverts including express advocacy and exceeded \$200. The
112 advertisements contained express advocacy, making them subject to SBYA. Ms.
113 Schneider recommended the Board find the flyer a violation of print media, doubled due
114 to the proximity to the election. Similarly, Ms. Schneider said the Facebook advertisement
115 constituted a second violation of print media, also doubled due to the proximity to the
116 election.

117 Chairman Alcorn asked if the advertisements met the current definition of express
118 advocacy. Ms. Schneider said yes, as the advertisements included language such as "vote
119 for," and "vote only for." Vice Chair Wheeler asked about the Facebook ad, and how the
120 Code addressed electronic advertisements. The Vice Chair encouraged legislators to revise
121 the Code section to be less vague. Ms. Schneider stated that the Code did classify websites
122 as print media clearly, and referred to §24.2-956(5), which stated, "if the advertisement
123 lacks sufficient space for a disclosure statement in the minimum font size of seven point,
124 the advertisement may meet disclosure requirements if, by clicking on the print media

125 advertisement appearing in electronic format, the viewer is taken to a landing page or a
126 home page that displays the disclosure statement in a conspicuous manner.” Chairman
127 Alcorn moved *subject to the Board’s authority under the Code of Virginia §24.2-955.3, to*
128 *find Alexandrians for Accountability at City Hall in violation of §24.2-956 Stand By Your*
129 *Ad print media disclosure requirements with regard to three advertisements, with no*
130 *apology or attempt to remedy, and are fined \$700.* Vice Chair Wheeler seconded the
131 motion, and the motion passed unanimously.

132 The next complaint was against Alexandrians for Better City Government. Ms.
133 Schneider stated the group was a registered PAC, and noted that the flyer in question was
134 properly disclosed. Ms. Schneider explained that the complaint was related to the
135 ambiguity that existed to the voter of whether the flyer was a sample ballot from the party,
136 an official, or from the PAC. Ms. Schneider said that SBYA only evaluated whether or not
137 an advertisement was properly disclosed, and therefore recommended the Board dismiss
138 the complaint as the print media requirements were fulfilled. Vice Chair Wheeler said the
139 Board had seen a similar situation before with a sample ballot, and said it was important
140 for candidates and PACs to be educated on how to format their advertisements to make it
141 clear whether adverts such as this are official sample ballots or not. Ms. Schneider said
142 Alexandrians for Better City Government provided ELECT with supporting evidence that
143 they operated in compliance with the law, including emails with the GR/DOE of
144 Alexandria, Anna Leider. Chairman Alcorn moved *subject to the Board’s authority under*
145 *the Code of Virginia §24.2-955.3, to find Alexandrians for Better City Government not in*
146 *violation of Stand By Your Ad.* Vice Chair Wheeler seconded the motion, and the motion
147 passed unanimously.

148 The next complaint was against Friends of Cesar. Ms. Schneider explained that
149 these violations happened in the town of Herndon, which normally would be exempt from
150 SBYA rules; but the town of Herndon passed an ordinance making it subject to SBYA.
151 Ms. Schneider presented the complaint, which alleged that Friends of Cesar was not a
152 registered PAC. Ms. Schneider said that Cesar Del Aguila provided ELECT with all of his
153 paperwork, proving that he properly filed. Ms. Schneider said the advertisement was
154 properly disclosed, and therefore, the complaint should be dismissed.

155 The next complaint was related, as it took place in the town of Herndon. Ms.
156 Schneider explained that “Moving Herndon Forward,” was originally interpreted to be the
157 name of a PAC, until it was clear that it was a slogan. Ms. Schneider stated the
158 advertisement in question was only provided to attendants of a party event; further, the cost
159 for producing the advertisement did not exceed \$200, and therefore did not constitute a
160 violation of the Code. Chairman Alcorn asked if there was a Code provision that made an
161 advertisement eligible for violation on account of the number of distributions. Ms.
162 Schneider said there was a total of 70 copies of the ad in question made, and that these ads
163 allegedly cost less than \$65 to produce. Ms. Schneider explained that the ads were
164 distributed during a Democratic committee meeting, and were not distributed to the voting
165 public.

166 The next complaint was against Signe for Herndon. Ms. Schneider said the ad in
167 question did not include proper disclosure, but because the ad did not include express
168 advocacy, did not require proper disclosure. Ms. Schneider suggested the Board dismiss
169 all three complaints: Friends of Cesar, “Moving Herndon Forward,” and Signe for
170 Herndon. Vice Chair Wheeler asked if Signe for Herndon’s ad was not in violation because
171 it did not have the “magic words”— words such as “vote for,” “vote against,” etc.— that
172 would constitute express advocacy. Ms. Schneider said yes, it was not in violation; she
173 further noted that the Board’s decision in a prior Board meeting to begin the process of
174 changing the definition of express advocacy beyond the “magic word” rule was a good
175 move.

176 John Farrell, counsel for the individuals from Herndon who had complaints filed
177 against them, agreed with staff recommendations. Mr. Farrell stated the only reason they
178 included the amount of people that the “Moving Herndon Forward” ad was distributed to
179 was to show the Board that the ad was meant as an internal communication to a political
180 party rather than an advertisement to the general public. Chairman Alcorn moved *subject*
181 *to the Board’s authority under the Code of Virginia §24.2-955.3 to find Friends of Cesar,*
182 *Moving Herndon Forward, and Signe for Herndon, not in violation of Stand By Your Ad.*
183 Secretary McAllister seconded the motion and the motion passed unanimously.

184 The next complaint was against Chris Hubbard. Ms. Schneider explained the
185 complaint was against a Facebook advertisement that did not include proper disclosure.

186 The ad was classified as print media under Code. Mr. Hubbard's committee provided the
187 Board with a letter that included an apology and proof of remediation; the images were
188 properly disclosed upon being reported in violation. Ms. Schneider recommended a \$100
189 penalty; a \$100 fine for a first time violation, reduced to \$50 for an apology and
190 remediation, and but then doubled due to proximity to the election. Vice Chair Wheeler
191 asked how long the advertisement was up before it was corrected. Ms. Schneider did not
192 have a perfect timeline, but noted that ELECT received emails from the Hubbard
193 committee 2 days prior with the rectification; the advertisements were for the November
194 general election, and were probably originally posted in June. Ms. Schneider noted the
195 duality of the elections presented a unique problem, as the advertisement was posted on
196 the day of the primary election, making it within two weeks of an election, but was intended
197 for the November election. Chairman Alcorn asked if Mr. Hubbard ran in the primary
198 election, and Ms. Schneider said he did. Because Mr. Hubbard did run in the primary, the
199 fine was doubled due to proximity to the election. Chairman Alcorn moved, *subject to the*
200 *Board's authority under the Code of Virginia §24.2-955.3, to find Chris Hubbard in*
201 *violation of Stand By Your Ad in regard to one violation, and is fined \$200.* Vice Chair
202 Wheeler seconded the motion, and the motion passed unanimously.

203 The next complaint was against Hampton Watch. Ms. Schneider explained the
204 advertisement, which was printed in a newspaper, was originally provided to the newspaper
205 with a disclosure included. However, the newspaper, while putting the advert in, cut off
206 the disclosure. Ms. Schneider said that Hampton Watch provided ELECT with the original
207 ad, which had a disclaimer; however, the disclaimer was not sufficient. The disclaimer did
208 not say if the candidates named in the ad authorized or supported the ad, making it an
209 incomplete disclosure. Ms. Schneider recommended the Board find a first time violation
210 with no apology or remediation, doubled due to proximity to the election.

211 Gaylene Kanoyton spoke on behalf of Dr. Carter, one of the candidates on the
212 advertisement, and said that the group had produced similar ads in the past with no issues.
213 Ms. Kanoyton said the incomplete disclosure was not intentionally done. Vice Chair
214 Wheeler asked if the GR looked at the advertisement before printing, and Ms. Kanoyton
215 said no; Ms. Kanoyton said the group did not know that requirement, but would make sure
216 to follow it in the future. Chairman Alcorn moved, *subject to the Board's authority under*

217 *the Code of Virginia §24.2-955.3, to find Hampton Watch in violation of Stand By Your Ad*
218 *in regard to one violation, and is fined \$200.* Vice Chair Wheeler seconded the motion,
219 and the motion passed unanimously.

220 The next complaint was against Newcomer for Leesburg School Board. Ms.
221 Schneider explained the advertisement was a Facebook ad; she noted the advertisement did
222 not have a disclosure, but as previously stated was allowed, if one were to click on the ad
223 and the linked page did have a disclosure, then there would be no violation. Ms. Schneider
224 stated, however, that ELECT was not able to determine if the linked page existed or not.
225 Ms. Schneider pointed to the explanation letter from the candidate that stated the linked
226 page did have a disclosure, but told the Board that ELECT could not confirm if this was
227 true or not. Chairman Alcorn argued it was on ELECT to show a violation, and without
228 having confirmation that there was or was not a disclaimer on the page, moved, *subject to*
229 *the Board's authority under the Code of Virginia §24.2-955.3, to find Joe Newcomer not*
230 *in violation of Stand By Your Ad.* Vice Chair Wheeler seconded the motion, and the motion
231 passed unanimously.

232 The next complaint was against Robey 2019. Ms. Schneider said the sign, which
233 simply stated "Robey 2019," did not constitute express advocacy. Ms. Schneider stated
234 ELECT received an explanation from Mr. Robey, who said he was not a registered political
235 candidate for any public office. Because he was not a political candidate, there was no
236 violation. Chairman Alcorn moved, *subject to the Board's authority under the Code of*
237 *Virginia §24.2-955.3, to find Robey 2019 not in violation of Stand By Your Ad.*

238 The next complaint was against Virginians Against Alcoholism. Ms. Schneider
239 stated the piece in question contained no express advocacy, and therefore recommended
240 the Board dismiss the complaint. Chairman Alcorn moved, *subject to the Board's authority*
241 *under the Code of Virginia §24.2-955.3, to find Virginians Against Alcoholism not in*
242 *violation of Stand By Your Ad.* Secretary McAllister seconded the motion, and the motion
243 passed unanimously. The Board thanked Ms. Schneider for her timely, organized
244 presentations and delivery of SBYA complaints.

245 Ms. Schneider then read a letter from Dr. Patricia King, a candidate who was found
246 in violation of SBYA during the Board's August 15, 2018 meeting. Dr. King's letter stated
247 that she did not participate in handing out the in-violation ballots, nor did she consent to

248 having her name put on said ballots. Chairman Alcorn said hopefully Dr. King would not
249 be reported again; in case she was, and if the Board found a violation then, it would be
250 counted as a first violation, rather than a second.

251 The next order of business was the discussion of issues going on in the City of
252 Hopewell. Commissioner Piper said the Board asked ELECT to present information about
253 some concerns the Board had about the City of Hopewell. The Commissioner recounted a
254 brief history of the issues: in April of 2018, the Commissioner received a call from a
255 concerned citizen and from other EB members throughout the state about the GR/DOE in
256 Hopewell resigning, effective April 30 (the Monday after the start of absentee voting for
257 the primary election in June). Commissioner Piper said the resignation was a concern
258 because without a GR, there could be disenfranchisement of voters who requested absentee
259 ballots. The Commissioner said other complaints included missing meeting minutes, EB
260 meeting changes or cancellation without notification in compliance with FOIA laws, and
261 more. The Commissioner contacted AJ Cole, the former GR/DOE of James City County,
262 to assist the City of Hopewell until the EB found a suitable replacement GR. Yolanda
263 Stokes was appointed GR/DOE on May 8.

264 Commissioner Piper said that the law required localities to provide proofs of ballots
265 to ELECT for review prior to every election. ELECT staff received a ballot from the City
266 of Hopewell that included the names of some candidates in all capital letters, while the rest
267 of the candidates' names appeared in mixed font. The Board approved ballot standards
268 earlier in the year that clearly stated, as a best practice recommendation, to not list any
269 names in all capital letters. The Code of Virginia §24.2-613 stated that "A. The ballots
270 shall comply with the requirements of this title and the standards prescribed by the State
271 Board." The Commissioner informed the Board that there was a newspaper article where
272 candidates stated that they did not intend or request to have their names printed on the
273 ballot in all capital letters. Other issues that the Commissioner addressed included that
274 ELECT requested copies of EB meeting minutes, but did not receive copies until the day
275 before the current Board meeting.

276 Chairman Alcorn stated that in his term on the Board, he had never received such
277 a volume of complaints for any locality. The Chairman referred to the Board's authority
278 on the issue, in the Code of Virginia §24.2-103 (c), which stated, "The State Board may

279 institute proceedings pursuant to § 24.2-234 for the removal of any member of an electoral
280 board who fails to discharge the duties of his office in accordance with law. The State
281 Board may petition the local electoral board to remove from office any general registrar
282 who fails to discharge the duties of his office according to law. The State Board may
283 institute proceedings pursuant to § 24.2-234 for the removal of a general registrar if the
284 local electoral board refuses to remove the general registrar and the State Board finds that
285 the failure to remove the general registrar has a material adverse effect upon the conduct
286 of either the registrar's office or any election. Any action taken by the State Board pursuant
287 to this subsection shall require a recorded majority vote of the Board.”

288 Commissioner Piper directed the Board to the candidate qualification form (SBE-
289 501), which included a section that directed candidates to include their name “as it is to
290 appear on the ballot.” The Commissioner said this section was not exempt from the Board-
291 approved ballot standards and Code requirements. Vice Chair Wheeler asked if AJ Cole
292 was paid by the City of Hopewell or by the state. Commissioner Piper said he was paid
293 Hopewell. Vice Chair Wheeler asked if ELECT sent staff to assist the situation.
294 Commissioner Piper said ELECT sent Terry Wagoner, Manager of Compliance Support,
295 who spent two 8-hour days training and providing support to Hopewell staff in absence of
296 a GR. The Commissioner said staff worked closely with the City of Richmond, City of
297 Petersburg, Chesterfield County, and Henrico County, in an effort to deal with the lack of
298 GR/DOE. Chairman Alcorn asked who was responsible for preparing the ballots, including
299 sending ballots to ELECT for review, under Code, and Commissioner Piper said both the
300 GR and EB were responsible.

301 Vice Chair Wheeler said all localities submit ballots for proofing so the ballots
302 could be corrected and reviewed, and asked if ELECT told Hopewell that the ballot that
303 was submitted with some names in all capital letters was unacceptable and in need of
304 correction. Commissioner Piper said ELECT notified the locality and asked for a new
305 proof with all candidate names in mixed lettering. The Vice Chair stated that after ELECT
306 told them the ballot was incorrect, the Hopewell GR and EB convened and voted to print
307 the ballot with some names in all capital letters, disregarding ELECT’s request.
308 Commissioner Piper confirmed there was a vote taken by the City of Hopewell to resubmit
309 the ballot with the names still in capital letters.

310 Patrick Washington, Chair of the City of Hopewell EB, stated that he was the only
311 member who said that the ballot with capital letters was unacceptable. Mr. Washington
312 claimed he advised the GR and other EB members to follow ELECT's guidance, but that
313 he was outvoted. Mr. Washington said the other two EB members often deliberated on
314 situations outside of public meetings, including on this issue. Chairman Alcorn asked why
315 Mr. Washington found it important that some candidates' names not appear in all capitals
316 letters. Mr. Washington said having only some candidates' names in all capital letters gave
317 the appearance of the election officials preferring one candidate over another; all candidate
318 names should be in mixed letters for uniformity and consistency.

319 Secretary McAllister addressed Mr. Washington's claim that the other two EB
320 members consulted with one another before public meetings. Mr. Washington explained
321 that Ms. Stokes said the other EB members had already decided to vote to resubmit the
322 ballot before the EB meeting on the topic happened. Secretary McAllister asked if this was
323 the only meeting where such prior discussions was had, and Mr. Washington said it was
324 not. Vice Chair Wheeler asked if Mr. Washington had another job besides being an EB
325 member. Mr. Washington said he did, and that the other EB members did not. Vice Chair
326 Wheeler stated that a three member board could not discuss matters of business without a
327 convened, public meeting. Chairman Alcorn asked Mr. Washington if he knew for a fact
328 that the other members had met to discuss the topic, or if they maybe had discussed it using
329 Ms. Stokes as a proxy. Mr. Washington said the other members travel together in the same
330 car, and are often alone in the GR office together; he could not state clearly that they did
331 not speak in proxy, but he believed they talked about business when together.

332 Vice Chair Wheeler stated that EB meetings must be held in public, with the proper
333 notice posted. The Vice Chair asked Mr. Washington if meeting times frequently changed,
334 without enough public notice in advance. Mr. Washington recounted a number of times
335 that the other EB members cancelled meetings, or told Mr. Washington that meetings had
336 been cancelled when, in fact, they had not been. Vice Chair Wheeler asked if there was a
337 meeting scheduled when the GR/DOE gave their resignation, and if that meeting was
338 changed or cancelled. Mr. Washington said the meeting was cancelled a couple times, but
339 that the Board was given written notice of the GR's resignation before the meeting. Vice
340 Chair Wheeler asked if the GR/DOE offered to come back and work as a paid contractor

341 while the EB looked for a replacement. Mr. Washington said he was unaware of such an
342 offer.

343 David Silvestro, Vice Chair of the EB, gave his testimony, stating he began as an
344 EB in March. Mr. Silvestro stated that during the GR/DOE's resignation, a resume was
345 given to the EB, offering for an election official from the City of Petersburg as a
346 replacement for the GR; this offer was made with no previous interviews or discussion.
347 Mr. Silvestro said the EB wanted to vote at that moment, but Mr. Silvestro did not want to,
348 and asked the resigning GR/DOE to set up a meeting with the candidate. The EB held
349 interviews; and then went into closed session to discuss options, and voted on a candidate
350 without ever leaving closed session, rendering the vote invalid. Mr. Silvestro claimed that
351 despite the vote being made in closed session the name of the candidate was leaked onto
352 Facebook and into newspaper articles. Mr. Silvestro stated the candidate faced harassment
353 and abuse, and withdrew his candidacy.

354 Mr. Silvestro claimed that when the EB received a letter from Commissioner Piper
355 about concerns with the locality's lack of GR, Mr. Silvestro was the only official from the
356 locality to respond. Mr. Silvestro claimed Mr. Washington did not give the EB any
357 leadership, and that the EB was refused copies of the Code of Virginia. Mr. Silvestro said
358 because the candidate had withdrawn his name for the GR position, the EB continued to
359 accept resumes. Mr. Silvestro stated he received Ms. Stokes' resume, and upon urging
360 from Ms. Wagoner and Mr. Cole, the EB voted unanimously to hire Ms. Stokes as the
361 GR/DOE. Mr. Silvestro commended Ms. Stokes for helping the locality through the
362 primary election despite being new to the position. Mr. Silvestro stated Mr. Washington
363 was often absent, and that he, as Vice Chair, spent countless hours in the GR office,
364 attempting to learn as many processes as possible, due to being new. Mr. Silvestro claimed
365 there were a number of leaks from the office, and that a GR from another locality had
366 access to Hopewell's VERIS account. Mr. Silvestro said that he sat with Ms. Stokes when
367 she went into VERIS to fix the candidate names that were in all capital letters, but when
368 notified from ELECT about the issues on the ballot, found that the names were still in all
369 capital letters.

370 Mr. Silvestro recounted that Commissioner Piper was sent a link to a page on the
371 Hopewell website that was a "spoof" link; the page showed the Hopewell ballots, with the

372 candidate names still in all capital letters. Mr. Silvestro said that the locality was being
373 threatened with lawsuits from “all sides” if they changed the names from all capital letters.
374 Mr. Silvestro directed the Board to SBE-501, pointing to the section Commissioner Piper
375 addressed earlier that stated “your name as it is to appear on the ballot.” Mr. Silvestro said
376 the Hopewell EB had been voting on whether or not they could change the form— the form
377 meaning SBE-501. Mr. Silvestro said it was not the EB’s place to change a state form, and
378 demanded ELECT mandate the EB to make the change; the EB stated the vote taken was
379 not in regards to changing the candidates’ names on the ballot, but rather to changing their
380 names on SBE-501. Mr. Silvestro said the EB wanted ELECT’s mandate to avoid
381 responsibility, in case candidates followed through with lawsuits. Chairman Alcorn asked
382 Mr. Silvestro what parties were threatening the locality with lawsuits. Mr. Silvestro said
383 the candidates with their names in capital letters stated they would sue the EB if their names
384 were changed to mix letters. Chairman Alcorn pointed to a newspaper article where the
385 candidates stated that they never intended for their names to be in all capital letters; the
386 candidates stated they wrote their name in all caps on the form just for clarity, believing it
387 would be put on the ballot in mixed letters, as usual. Mr. Silvestro stated SBE-501 said
388 “exactly as you want it to appear on the ballot,” meaning the GR had to put the name in all
389 caps on the ballot if it was put in all caps on the form by the candidate. Mr. Silvestro said
390 everything the EB did was done in good faith, and that issues like the alleged hacking,
391 leaks, and false links were out of their control.

392 Chairman Alcorn asked when Mr. Silvestro first received the ballot proofs. Mr.
393 Silvestro stated he never received them. Chairman Alcorn asked what his reaction was
394 when he learned ballots or ballot proofs were going to have some candidate names in all
395 caps. Mr. Silvestro said he first learned of the situation from Ms. Stokes, who was
396 concerned about lawsuits; Mr. Silvestro continued to state that ELECT had to tell them to
397 change the form. Chairman Alcorn said that ELECT told the locality that their ballots,
398 with some names in all caps, were not acceptable; the Chairman asked if the EB held a
399 meeting to vote on the ballot proofs before or after hearing from ELECT staff. Mr.
400 Silvestro was unsure. Commissioner Piper said the meeting was held after the EB heard
401 from ELECT. Chairman Alcorn stated that Mr. Silvestro wanted a mandate from ELECT
402 staff on what to do; but that after receiving direction from ELECT to resubmit their ballots

403 with all candidate names in mixed letters, the Hopewell EB voted to resubmit without
404 following their directions. Mr. Silvestro insisted he did not want to resubmit ballots, but
405 wanted direction from ELECT on changing the form. Chairman Alcorn stated the issue at
406 hand was not the form, but the ballot. The Chairman said after the EB meeting, he received
407 an email from Ms. Stokes stating that the Hopewell EB had voted to resubmit the ballot
408 with the names in all caps.

409 Vice Chair Wheeler attempted to clarify the ballot v. form situation. The Vice
410 Chair outlined that the Hopewell office submitted ballot proofs to ELECT, with some
411 candidate names in all capital letters. ELECT staff told the locality that the ballot was not
412 acceptable, and to resubmit ballot proofs with all names uniform and in mixed letters. The
413 Hopewell EB then held a meeting where the members took a vote to resubmit the ballot
414 with some names still in all upper case lettering. Mr. Silvestro continued to insist that he
415 was voting on a form, not on the ballot. The Vice Chair asked if Mr. Silvestro had seen
416 the ballot with the improper lettering. Mr. Silvestro was unsure if he had seen it or not.
417 Vice Chair Wheeler asked if anyone other than ELECT staff and Mr. Washington advised
418 the EB that the ballot was improper, and Mr. Silvestro said no. Vice Chair Wheeler asked
419 if Mr. Silvestro knew, at any point, that the ballot proofs were being submitted to ELECT
420 with some names in all capital letters. Mr. Silvestro said yes. Vice Chair Wheeler asked
421 if the EB held a meeting to vote on resubmitting the ballot. Mr. Silvestro said no.
422 Chairman Alcorn read an email from Ms. Stokes that read, "The Board voted 2:1 for the
423 ballot styles to remain. They have directed me to keep it. I'm going to do as instructed by
424 the Board." Mr. Silvestro denied that this happened, and said he voted on the form.

425 Vice Chair Wheeler stated that the Code of Virginia was clear in stating that ballots
426 must be uniformly printed, and said that the vendor that prints ballots for the City of
427 Hopewell refused to print the ballots as long as some names remained in all capital letters.
428 Mr. Silvestro said he was not sure, as he had only been on the EB a short time. Vice Chair
429 Wheeler said Mr. Silvestro had earlier stated he was in the GR office very often to learn
430 about processes like this.

431 Vice Chair Wheeler recounted the issue the City had with replacing the GR: the
432 Vice Chair recalled that the GR, who had been there for years, retired. The Deputy GR
433 was then moved to GR, but within 30 days, gave written resignation to the EB. Vice Chair

434 Wheeler asked if Mr. Silvestro was aware of the written resignation, which stated that the
435 resigning GR would be willing to work as a private contractor until the locality could find
436 a new GR; Mr. Silvestro said that he was unaware of such an offer. Vice Chair Wheeler
437 asked if the EB posted the GR job vacancy anywhere online or in a newspaper. Mr.
438 Silvestro said no; the resigning GR had given the EB a recommendation and resume for a
439 replacement. Vice Chair Wheeler reiterated the point that the job was never posted
440 anywhere publicly, and Mr. Silvestro agreed that it had not been. The Vice Chair stated
441 that it was the responsibility of the EB to post that vacancy. Mr. Silvestro assumed the
442 process just included receiving resumes, like the EB had from the resigning GR, as he was
443 new to the EB.

444 Vice Chair Wheeler asked if the EB interviewed any candidates other than the two
445 that were hired. Mr. Silvestro said Tammy Alexander, who now serves as Campaign
446 Finance Compliance and Training Specialist with ELECT, was interviewed as well. Vice
447 Chair Wheeler stated that Ms. Alexander had given the EB a resume, and had served for
448 many years on the City of Petersburg EB, and was a member of the Virginia Electoral
449 Board Association (“VEBA”), but that the City of Hopewell hired Ms. Stokes instead. Mr.
450 Silvestro said yes, that was what happened. Vice Chair Wheeler asked if any of the people
451 interviewed had experience in elections, managing personnel and budgets, and/or
452 experience with administration; Mr. Silvestro said that only Ms. Stokes did. Vice Chair
453 Wheeler asked if Mr. Silvestro had access codes to the computers in the Hopewell office,
454 or to VERIS, and Mr. Silvestro said no. Mr. Silvestro then stated that Ms. Alexander
455 couldn’t have served as GR regardless, as the Code stated that a person could not have
456 served on a board for a period of 6 months before applying to a job. The Board said this
457 was not true, and not in the Code.

458 Herbert Townes, Secretary of the EB, then gave his testimony. Mr. Townes stated
459 that the EB had never seen the ballot, and did not have the ballot in front of them when at
460 that EB meeting. Mr. Townes stated the EB was only voting on the form and whether or
461 not they were allowed to change people’s names on the form. Chairman Alcorn asked if
462 Mr. Townes knew if ballots had been submitted at that point. Mr. Townes said no; he was
463 under the impression that they had not yet submitted a ballot. Chairman Alcorn said he
464 had a picture of Mr. Washington holding the ballot while sitting across the table from Mr.

465 Townes. Mr. Townes said there was no ballot there, and that he had never seen the ballot.
466 Vice Chair Wheeler stood up and showed Mr. Townes a picture of him, at the meeting,
467 looking at the ballot in Mr. Washington's hand. Mr. Townes stated he had never seen the
468 ballot.

469 Graham Moomaw, a reporter from the Richmond-Times Dispatch, posted a video
470 on Twitter from the EB meeting; this video was shown to the Board. In the video, Mr.
471 Washington stated it would be "insane" for the other EB members to vote to resubmit the
472 ballot with some candidate names in all capital letters. Mr. Silvestro stated the state would
473 have to give a mandate for the EB to change the ballot, and Mr. Townes agreed. Mr.
474 Washington stated it was the EB's responsibility to ensure a fair election, and that
475 approving and submitting a ballot with candidate names in all capital letters was against
476 ELECT's advice, against the Board's ballot standards, and against the Code.

477 Mr. Townes reiterated that he believed he was voting for the form. Secretary
478 McAllister asked how long Mr. Townes had been an EB, and Mr. Townes said he had
479 served on the Board for about six years. Secretary McAllister said perhaps the entire
480 situation was a training issue, but expressed concern at Mr. Townes serving on the EB for
481 six years and not understanding the intent of the "as it is to appear on the ballot" statement
482 on the form. The Secretary pointed out the form gave clear examples of what that phrase
483 meant, including variations of middle names and initials, as well as options of "Jr." and
484 other such name variations. Mr. Townes stated the entire situation was new to the
485 Hopewell EB, including choosing a new GR and the ballot issue. Mr. Townes alleged that
486 there was a leak from the GR office, tipping the media off to the capital-letter situation
487 before the EB held the meeting. Mr. Townes further stated the situation was not a partisan
488 one, as all of the candidates were running as independents.

489 Yolanda Stokes, City of Hopewell GR/DOE, then gave her testimony. Ms. Stokes
490 informed the Board she was new to the entire situation, and said the EB had been difficult
491 to deal with since the beginning of her tenure; Ms. Stokes stated she almost called the
492 authorities during the first EB meeting she attended because of the disarray. Ms. Stokes
493 insisted no EBs communicated outside of meetings using her as a proxy, and said no
494 members made decisions without the others. Ms. Stokes stated she always informed Mr.
495 Washington of meetings, and that the EB would not have meetings without him.

496 Ms. Stokes stated that she believed the ballot was still in “proofing” stages when
497 she sent them to ELECT with names in all capital letters. Ms. Stokes said that in June she
498 asked another GR/DOE about where the information that went into VERIS came from.
499 Ms. Stokes alleged that the GR told her it came from SBE-501, and that the information
500 had to be entered exactly as it appeared on the form, including in all caps. Ms. Stokes said
501 she made a number of corrections on the ballot in a back-and-forth communication with
502 ELECT, but wanted to consult with the EB about names that were in all capital letters. Ms.
503 Stokes said she knew the state said that all capital letters were not permitted, but wanted to
504 consult the EB regardless. Chairman Alcorn asked if ELECT told Ms. Stokes that the
505 names in all caps were not acceptable before the EB meeting, and Ms. Stokes said they did.
506 Chairman Alcorn asked if it was Ms. Stokes’ understanding that the ballot could be re-
507 submitted with all capital letters, despite acknowledging that the state said it was not
508 permissible.

509 Ms. Stokes stated she knew the EB was discussing the form, not the ballot. Ms.
510 Stokes said because of threats of legal action from candidates, she wanted to advise the EB
511 and get direction. During the EB meeting, Ms. Stokes said she told Mr. Washington that
512 the names on the ballot had to be mixed case. Ms. Stokes said the EB discussed the form,
513 and she then left the office for an out-of-locality training. Secretary McAllister clarified
514 that Ms. Stokes was stating that she informed the EB of the ballot requirements, and that
515 despite that, the EB voted 2:1 to resubmit the ballot with some names in all capital letters.
516 Ms. Stokes said that the EB voted 2:1 about the form, not the ballot.

517 Vice Chair Wheeler asked if Ms. Stokes worked in a GR office before becoming a
518 GR. Ms. Stokes said she had campaign experience, doing third party voter registration
519 training. Ms. Stokes stated she did work in the City of Petersburg with third party voter
520 registration training because Petersburg was a predominantly Black locality, and that the
521 populous was uncomfortable with a white GR/DOE. Ms. Stokes said the EB trained her in
522 assisting the residents, and that she served as a point person for Black organizations like
523 the NAACP. Vice Chair Wheeler asked if Ms. Stokes indicated that she worked in the GR
524 office to the City of Hopewell when applying for the GR job. Ms. Stokes said no; she just
525 informed them that she did third party registration. Ms. Stokes said she also worked in the

526 City of Richmond with Ms. Wagoner, and that she also worked on Joe Morrissey's
527 campaign for Mayor.

528 Vice Chair Wheeler asked if Ms. Stokes had voted most of her life, and Ms. Stokes
529 said that she had. The Vice Chair asked if Ms. Stokes had ever seen a ballot with some of
530 the candidates' names in all capital letters before. Ms. Stokes said yes, in Virginia. Vice
531 Chair Wheeler stated that the elections community in Virginia went by the Code of
532 Virginia, and the Code was very specific about how names could appear on the ballot. The
533 Vice Chair said ELECT's instructions about ballot requirements were very clear, and stated
534 it was surprising any GR would intentionally submit a ballot to ELECT for review with
535 some names in all capital letters. Ms. Stokes said keeping the names in all caps was not
536 her intention, as she believed the ballot was still in the proofing process. Vice Chair
537 Wheeler clarified that ELECT told her to change the names to mix lettering. Ms. Stokes
538 said yes, but said that she was learning and wanted to discuss the issue with the EB.

539 Vice Chair Wheeler asked if Ms. Stokes understood that EB meetings were to be
540 public, and to be posted publicly. Ms. Stokes said yes, and that meetings were never
541 changed without notice. Ms. Stokes stated all meetings and notices were publicly posted
542 and handled by the secretary at the GR office in Hopewell, who also served as the locality's
543 Freedom of Information Act (FOIA) officer. Vice Chair Wheeler asked if any candidate
544 or prospective candidate came to the City of Hopewell GR office and delivered paperwork
545 who then did not appear on the ballot. Ms. Stokes said yes. The Vice Chair asked why
546 those candidates did not appear on the ballot, and Ms. Stokes explained that the candidates
547 did not qualify as they did not have the required number of signatures on their petitions.
548 Vice Chair Wheeler asked how Ms. Stokes knew that, and Ms. Stokes said she checked the
549 petition signatures against VERIS. The Vice Chair asked if the candidates were advised
550 that they were short on the number of required signatures, and Ms. Stokes said that they
551 were. Vice Chair Wheeler asked if the candidates went and collected more signatures, and
552 Ms. Stokes stated she did not know; she only knew that those candidates failed to file the
553 required paperwork. Vice Chair Wheeler asked how many signatures short the candidates
554 were, and Ms. Stokes said one candidate was short all required signatures, and that the
555 other candidate did not get some petition pages properly notarized, leaving them 30
556 signatures short. Vice Chair Wheeler asked if anyone came to submit papers and was told

557 they missed the deadline before it was 5pm on the last day to submit. Ms. Stokes stated
558 there were none that she could recall.

559 Chairman Alcorn stated that upon hearing the testimonies, reviewing the materials
560 provided by ELECT, and hearing facts from media sources, that he found the entire
561 situation alarming. The Chairman said the capital letters on the ballots reflected a severe
562 lack of judgement, and that Virginia had always recognized and used Australian style
563 ballots to ensure uniformity. The Chairman found that certain members of the EB
564 disregarded FOIA open meeting requirements, failed to produce ballots in accordance with
565 Virginia ballot standards, and failed to hire and oversee the office of GR/DOE. Chairman
566 Alcorn moved *pursuant to the Board's authority under §24.2-103 (c) that the State Board*
567 *of Elections agree to petition the Hopewell Circuit Court for the removal of Vice Chair*
568 *David Silvestro and Secretary Herbert Townes pursuant to §242.-234 and to work with the*
569 *Office of the Attorney General to do so.* Vice Chair Wheeler seconded the motion. Vice
570 Chair Wheeler stated the actions taken by the Hopewell EB and GR were egregious and
571 blatant attempts to skew voting. The motion passed unanimously.

572 Chairman Alcorn then moved to adjourn the meeting. Vice Chair Wheeler
573 seconded the motion, and the motion passed unanimously. The meeting was adjourned at
574 approximately 2:52 PM. The next Board meeting will be on October 9 at 11:30 AM.

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Secretary



Chair



Vice Chair