

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Tuesday, April 14,
4 2015. The meeting was held in the General Assembly Building, Room D, Richmond,
5 Virginia. In attendance, representing the State Board of Elections (SBE) was Clara Belle
6 Wheeler, Vice Chair, and Singleton McAllister, Secretary. Also in attendance,
7 representing the Department of Elections (ELECT) was Edgardo Cortés, Commissioner;
8 Elizabeth Howard, Deputy Commissioner; and Rose Mansfield, Clerk. Kristina Perry
9 Stoney, Senior Assistant Attorney General and Counsel to SBE and ELECT attended.
10 Vice Chair Wheeler called the meeting to order at 11:10AM.

11 The first order of business was the Commissioner Report delivered by
12 Commissioner Cortés. Commissioner Cortés stated that Chairman Alcorn sends his
13 regrets for being unavailable to attend this Board Meeting and that legal counsel would
14 be joining the meeting momentarily.

15 The seconded order of business was the Interim Report on Voting Equipment
16 Performance, Usage and Certification presented by Commissioner Cortés. Commissioner
17 Cortés stated that during the April 1, 2015, SBE Board Meeting ELECT presented a
18 report to SBE related to voting equipment issues that occurred during the November
19 2014, General Election. The Department of Elections contracted with a federally
20 accredited voting systems test lab, Pro V&V, Inc. This was an inaugural post-election
21 review regarding election equipment issues. A survey was distributed to the localities
22 designed to identify issues encountered on Election Day. Commissioner Cortés stated that
23 50 localities reported equipment issues on Election Day. The independent consultant and
24 ELECT staff member, Eugene Burton, requested information from select localities and
25 site visits were conducted at three localities (Virginia Beach, Henrico & Spotsylvania
26 County). Those localities were following industries “Best Practices”. Commissioner
27 Cortés stated that the full report is posted on the ELECT website. The issues discovered
28 were referred to Virginia Information Technologies Agency (VITA) Security Division
29 according to protocol. The recommendation, presented to ELECT, was to review the
30 WinVote voting equipment and vulnerability testing was conducted on the equipment.
31 ELECT received the results of the testing on March 27, 2015 and the report was

32 presented on April 1, 2015 at the SBE Board Meeting during executive session. ELECT
33 was directed by SBE to release information without compromising the security of the
34 process. SBE requested that VITA conducted additional testing and that ELECT schedule
35 a Board Meeting. Commissioner Cortés stated that meetings were conducted at the
36 localities to discuss the WinVote voting equipment. The discussion regarding preparation
37 for the June 9, 2015 primaries was initiated and avenues to address voting equipment
38 options were discussed. Commissioner Cortés stated that an executive session is
39 recommended to discuss the findings and that locality representatives present in those
40 affected localities should remain during closed session.

41 Secretary McAllister thanked the Commissioner and the ELECT staff for their
42 efforts regarding this investigation and stated: “It is important to conduct fair, free, and
43 transparent elections for the State of Virginia.” Secretary McAllister moved *that the SBE*
44 *Board close the meeting to discuss (i) specific details and a briefing from VITA regarding*
45 *the findings of WinVote voting equipment testing and security under the provision §24.2 -*
46 *625.1 voting equipment security and (ii) specific legal matters requiring the provision of*
47 *legal advice by legal counsel as authorized by § 2.2-3711(A)(7) of the Code of Virginia.*
48 Vice Chair Wheeler seconded the motion and without public comment the Board
49 unanimously approved the motion. Vice Chair Wheeler directed VITA Representatives,
50 ELECT staff members, and representatives of the localities utilizing WinVote voting
51 systems equipment to remain with the Board during the closed session. The Board went
52 into Executive Session at 11:50AM.

53 At 12:45PM Secretary McAllister *moved to reconvene in open session and a roll*
54 *call vote was taken as required by § 2.2-3712(D) of the Code of Virginia, unanimously*
55 *certifying that during the closed meeting (i) only public business matters lawfully*
56 *exempted from open meeting requirements under this chapter, and (ii) only such public*
57 *business matters as were identified in the motion by which the closed meeting was*
58 *concerned were heard, were discussed or considered.* Chairman Wheeler seconded the
59 motion and the Board unanimously approved the motion. Ms. Mansfield performed the
60 roll call vote and all Board Members approved the motion.

61 Commissioner Cortés stated that the Board Members and participants of the
62 closed session received an overview by the VITA Chief Information Officer, Mike

63 Watson, regarding the results of the vulnerability penetration testing conducted on the
64 WinVote system in particular to disable the wireless conductibility without destabilizing
65 the system. There were technical questions presented by Board Members and
66 representatives from the localities involved. VITA has provided a report to the Board
67 Members pertaining to the risk assessment that was performed. Vice Chair Wheeler open
68 the discussion to the public.

69 The following speakers provided public comment:

- 70 ❖ Alex Blakemore, Virginia Verified Voting, Co-Founder
- 71 ❖ Mary Jo Field, Virginia Municipal League, Director of Research
- 72 ❖ Anthony Sabo, Yankee Laboratories, President
- 73 ❖ Erik Johnston, Virginia Association of Counties, Director of
74 Government Affairs
- 75 ❖ Jason Corwin, County of Mecklenburg, General Registrar
- 76 ❖ Richard Herrington, City of Fairfax, Secretary of the Electoral Board
- 77 ❖ Kevin Linehan, City of Fairfax, General Registrar
- 78 ❖ Jordon Butler, New Virginia Majority, Voting Rights Coordinator
- 79 ❖ Anna Scholl, Progress Virginia, Executive Director
- 80 ❖ Georgina Cannon, Democratic Party of Virginia, Co-Chair, Voter
81 Protection Council
- 82 ❖ Amy Hunter, Richmond City, Poll Worker
- 83 ❖ Courtney Mills, Fair Elections Legal Network, Attorney & Election
84 Official for Fairfax County

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86 Secretary McAllister thanked the speakers for their time and presentations.
87 Commissioner Cortés stated that ELECT has been working with vendors and the
88 localities to identify the available options for those localities affected that are holding a
89 June 2015, general primary. Commissioner Cortés stated that a conference call was
90 conducted with the vendors to determine the type of assistance that would be provided to
91 the localities. A report from the vendors was provided to the 10 localities that are
92 conducting primaries who currently utilize the WinVote systems. Localities will be able
93 to borrow equipment from other localities that are not holding a June primary. Those

94 localities who wish to purchase new equipment will have access to state contracts.

95 Commissioner Cortés stated: “Based on the full range of testing, we are confident
96 in saying that there is no way to fully disable the wireless conductivity on the WinVote
97 system, without destabilizing the system, making it unable to function as required, to
98 properly administer an election. This creates an unacceptable risk of the integrity of the
99 election process in the Commonwealth. As the commissioner of elections, I recommend
100 that SBE move to immediately decertify the WinVote system and prohibited its’ use in
101 future elections in the Commonwealth.”

102 Secretary McAllister moved *that based on these conclusions, and with*
103 *consideration given to public comment and the recommendations of the Department of*
104 *Elections, and pursuant to the Board's authority granted in 24.2-629(I), I move that the*
105 *board vote to decertify AVS WinVote voting machines for use in the commonwealth of*
106 *Virginia, effective immediately, based on the significant problems detected after the*
107 *November 2014 election.* Vice Chair Wheeler seconded the motion and the Board
108 unanimously approved the motion.

109 Secretary McAllister moved *that having decertified the WinVote voting machines,*
110 *and in the interest of transparency, I further move that the report prepared by VITA and*
111 *presented to the Board today, detailing the security assessment performed, be made*
112 *public and direct the department of elections to post the report on the department's*
113 *website as soon as practicable, and without delay.* Vice Chair Wheeler seconded the
114 motion and the Board unanimously approved the motion.

115 Vice Chair Wheeler stated: “This is an important decision with deliberation and
116 diligence of thought. I would advise that if anyone in the election community has
117 problems with equipment; bring the issue to the Board Members or to ELECT. Election
118 Officials need to be educated on the new equipment.”

119 The next order of business was the Legal Report. Ms. Stoney turned the report
120 presentation over to Joshua Heslinga, Assistant Attorney General. Mr. Heslinga stated
121 that legal counsel represented SBE today in open court regarding the Joe Morrissey
122 request. Mr. Heslinga stated that the court denied Mr. Morrissey request for a temporary
123 injunction based on a lack of evidence presented to the court. Ms. Stoney stated that the
124 Legal Report was complete.

125 Vice Chair Wheeler moved *that the Board adjourn*. Secretary McAllister
126 seconded the motion and without further comment the Board voted unanimously to
127 adjourn. The meeting was adjourned at approximately 1:55PM.

128 The Board shall reconvene on May 12, 2015 at 2:00PM in the Washington
129 Building, 1100 Bank Street, Room B27, Richmond, Virginia.

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Secretary

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Chair

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Vice Chairman

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