

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Tuesday, September 1,
4 2015. The meeting was held in the General Assembly Building, Richmond, Virginia –
5 Room C. In attendance, representing the State Board of Elections (SBE) was James
6 Alcorn, Chairman; Clara Belle Wheeler, Vice Chair; and Singleton McAllister, Secretary.
7 Also in attendance, representing the Department of Elections (ELECT) was Edgardo
8 Cortés, Commissioner; Elizabeth Howard, Deputy Commissioner; Susan Lee, Director of
9 Compliance and Administration; Gary Fox, Supervisor; and Rose Mansfield, Clerk. Anna
10 Birkenheier, Assistant Attorney General and Counsel to SBE and ELECT attended.
11 Chairman Alcorn called the meeting to order at 2:00PM.

12 The first order of business was the approval of the Minutes from the State Board
13 of Elections Board Meeting held on July 28, 2015. Chairman Alcorn identified a
14 typographical error and reported to the clerk for amendment of the presented minutes.
15 Secretary McAllister moved *that the minutes be adopted as amended*. Vice Chair
16 Wheeler seconded the motion and the Board unanimously approved the Minutes.

17 The second order of business was the Commissioner Report. Commissioner
18 Cortés stated that Board members were provided the Step-by-Step instructions for
19 recounts. The instructions were reviewed by the ELECT team to reduce redundancy and
20 increase the emphasis on machine readable paper ballots. A terminology section was
21 added consistent with recent *Code* changes. The document includes Standard Operating
22 Procedures for a recount scenario. Chairman Alcorn asked if the document required
23 Board approval. Commissioner Cortés stated that it is to be the pleasure of the Board
24 whether to formally adopt the operational document. Vice Chair Wheeler stated that a
25 review of the suggested changes is required before releasing the document. Secretary
26 McAllister repeated the sentiment and stated that a complete Board review would ensure
27 transparency.

28 Commissioner Cortés stated that the electronic pollbook team will be traveling to
29 different localities providing demonstrations on the electronic pollbook systems. ELECT
30 has been working on an array of training materials subsequent to the annual training
31 event as a result of the feedback that was received by the elections community.

32 Additional on-line training is being developed for the Virginia Election and Registration
33 System (VERIS) system. Commissioner Cortés reported that he and Matt Davis, ELECT
34 CIO, will be attending the Voter Information Project Summit. Commissioner Cortés
35 stated that absentee voting will start on September 18, 2015 for the November 2015,
36 General Election.

37 The next order of business was the Electronic Pollbook Certification-Update
38 provided by Susan Lee, Director of Compliance & Administration. Ms. Lee stated that
39 there are three electronic pollbook systems that require certification in the
40 Commonwealth. These systems are the newer generation of pollbooks and utilize
41 wireless communication. Ms. Lee explained the benefits of utilizing this system and the
42 value to the general registrar's office. Ms. Lee added that wireless communication
43 devices are not risk free. Ms. Lee stated that the three systems were piloted in a recent
44 special election. Ms. Lee explained that during the testing one of the pollbooks systems
45 experienced issues. Ms. Lee stated that ELECT reviewed the situation and initiated
46 additional testing through Virginia Information Technologies Agency (VITA). The
47 recommendation from VITA and ELECT area specialists is that additional testing be
48 conducted on the electronic pollbooks to include a vulnerability scan.

49 Chairman Alcorn asked about the time-line for the certification process. Ms. Lee
50 responded that VITA stated that testing could conclude in two weeks. Mike Watson,
51 VITA Representative approached the podium. Mr. Watson stated that the two week
52 testing period was a reasonable expectation. Mr. Watson explained the process of testing.
53 Secretary McAllister asked about the resources required to test the equipment and whose
54 budget would the testing impact. Mr. Watson explained that the agencies work together
55 and share resources. Secretary McAllister noted concern that the testing would be
56 complete prior to the Board's next meeting. Commissioner Cortés stated that the
57 Commonwealth would be a leader in vulnerability and penetration testing for electronic
58 pollbooks and the standards being utilized are the established Commonwealth's standards
59 and those standards have been provided to the vendors.

60 Vice Chair Wheeler stated that caution should be utilized when introducing
61 wireless devices to the election process. Mr. Watson stated that the testing that VITA will
62 conduct will provide a reasonable level of assurance. Ms. Lee stated that after VITA

63 conducts the initial phase of testing there may be a need to conduct additional testing.
64 Chairman Alcorn stated that SBE Board members would like to move forward with the
65 testing of the electronic pollbooks utilizing caution. Chairman Alcorn requested an
66 update at the next Board meeting.

67 The next order of business was the SB11 Workgroup appointments presented by
68 Commissioner Cortés. Commissioner Cortés stated that the agency has had a request to
69 add Alex Blackmore as a substitute for Jeremy Epstein, Verified Voting, in the event that
70 he is not able to attend the workgroup meetings. The Chief Information Officer (CIO)
71 for the Commonwealth, Nelson Moe, will replace the outgoing CIO. Vice Chair Wheeler
72 moved *that Mr. Moe and Mr. Blackmore be added to the membership of the SB11*
73 *Workgroup as members.* Secretary McAllister seconded the motion and without public
74 comment the Board unanimously approved the motion.

75 The first order of business under “New Business” was the Voting Systems-
76 Halifax County presented by Gary Fox, ELECT Supervisor. Mr. Fox stated that ELECT
77 received a request from Halifax County to utilize the Unisyn OpenElect version 1.3
78 optical scan voting system in their Central Absentee Precinct (CAP) during the
79 November 2015, General Election. The Board certified this equipment at the June, 2015
80 Board meeting. Vice Chair Wheeler moved *the Board approve the experimental use of*
81 *the Unisyn OpenElect version 1.3 optical scan voting system in Halifax County in their*
82 *CAP for the November 3, 2015 General Election.* Secretary McAllister seconded the
83 motion and without public comment the Board unanimously approved the motion.

84 The next order of business was the Recount Documents presented by Elizabeth
85 Howard, ELECT Deputy Commissioner. Ms. Howard stated that Virginia *Code* §24.2-
86 802 requires the Board to promulgate standards in the form of a document titled Ballot
87 Examples, Hand Counting Printed Ballots for Virginia Elections or Recounts to ensure
88 the accurate determination of the votes. Ms. Howard provided examples of pictograms
89 which reflected possible scenarios of ballots where the voters’ intent may come in
90 question. Ms. Howard noted that some of the suggested changes are for increased
91 readability i.e. increased font size. Ms. Howard asked that the Board members consider
92 the information and examples provided, regarding recount documents, for adoption at the
93 next Board meeting. Board members inquired about the particulars of the examples

94 provided in the recount documents packet. Commissioner Cortés stated that in the June
95 2015, primary several localities had to utilize paper ballots and it became apparent that
96 the presented document required revisions and updates. Chairman Alcorn stated that the
97 organizations that conduct recounts should be contacted for their input. Chairman Alcorn
98 asked if there were additional questions and there were none.

99 The next order of business was the Other Business and Public Comment
100 period. General Public comment was received by the Board.

101 The next order of business was the Legal Report presented by Anna Birkenheier,
102 Assistant Attorney General and SBE Counsel. Ms. Birkenheier stated that in the case
103 Marcellus v. the State Board of Elections, that challenges the inclusion of party indicators
104 on the ballot only for candidates for federal, statewide, General Assembly office, a status
105 conference was conducted with the presiding federal judge and a hearing on the
106 Plaintiffs' motion for a preliminary injunction will be conducted on September 3, 2015.
107 Ms. Birkenheier stated that in the case Adams v. the State Board of Elections, that
108 challenges the constitutionality of § 24.2-509, which permits incumbents to select the
109 method of nomination, has been appealed to the Fourth Circuit Court and SBE counsel is
110 awaiting further instruction from the court. Ms. Birkenheier request a closed session to
111 discuss specific legal matters.

112 Chairman Alcorn moved *that the SBE Board close the meeting to discuss specific*
113 *legal matters requiring the provision of legal advice by legal counsel as authorized by §*
114 *2.2-3711(A)(7) of the Code of Virginia.* Vice Chair Wheeler seconded the motion and
115 without public comment the Board unanimously approved the motion. Chairman Alcorn
116 directed Clara Belle Wheeler, Vice Chair; Singleton McAllister, Secretary; Anna
117 Birkenheier, Assistant Attorney General and SBE Counsel; Joshua Heslinga, Assistant
118 Attorney General; Commissioner Cortés and Deputy Commissioner Howard to remain
119 with the Board during the closed session. The Board went into Executive Session at
120 3:25PM.

121 At 3:45PM Chairman Alcorn *moved to reconvene in open session and a roll call*
122 *vote was taken as required by § 2.2-3712(D) of the Code of Virginia, unanimously*
123 *certifying that during the closed meeting (i) only public business matters lawfully*
124 *exempted from open meeting requirements under this chapter, and (ii) only such public*

125 *business matters as were identified in the motion by which the closed meeting was*
126 *concerned were heard, were discussed or considered.* Vice Chair Wheeler seconded the
127 motion and the Board unanimously approved the motion. Ms. Mansfield performed the
128 roll call vote and all Board Members approved the motion.

129 Secretary McAllister moved *that the Board adjourn.* Vice Chair Wheeler
130 seconded the motion and without further comment the Board voted unanimously to
131 adjourn. The meeting was adjourned at approximately 4:20PM.

132 The Board shall reconvene on October 6, 2015 at 2:00PM in the Washington
133 Building, 1100 Bank Street, Room B27, Richmond, Virginia 23219.

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Secretary

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Chair

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Vice Chair

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