

MINUTES

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3 The State Board of Elections Board Meeting was held on Tuesday, October 18,
4 2011. The meeting was held in the State Capitol, House Room Two in Richmond,
5 Virginia. In attendance, representing the State Board of Elections (SBE) were Charles
6 Judd, Chair; Kimberly Bowers, Vice-Chair; Donald Palmer, Secretary; Joshua Lief,
7 Senior Assistant Attorney General and SBE Counsel; Justin Riemer, Deputy Secretary;
8 Martha Brissette, Policy Analyst; and Chris Piper, Election Services Manager. Chairman
9 Judd called the meeting to order at 3:00PM.

10 The first order of business was the approval of Minutes from the State Board of
11 Elections Board Meeting held on September 6, 2011. After careful review of the Minutes,
12 Vice-Chair Bowers made a motion to approve them since there were not suggested
13 changes. Secretary Palmer seconded the motion and the Minutes were unanimously
14 approved by the Board.

15 The second order of business was the approval of Minutes from the State Board of
16 Elections Board Meeting held on October 5, 2011. After careful review of the Minutes,
17 Vice-Chair Bowers made a motion to approve them since there were no suggested
18 changes. Secretary Palmer seconded the motion and the Minutes were unanimously
19 approved by the Board.

20 The third order of business was the presentation of the resolution honoring the life
21 and work of Robert M. Ostergren, former General Registrar of Hanover County, who
22 passed away on September 2, 2011. Chairman Judd invited the attending representatives
23 of the Ostergren family to the podium for the presentation. Representing the Ostergren
24 family were Howard Ostergren; twin brother of Robert M. Ostergren and JoAnn Yates;
25 sister of Robert M. Ostergren. Chairman Judd presented the resolution and personally
26 thanked the Ostergren family for the dedication Robert M. Ostergren demonstrated while
27 representing the voters of the Commonwealth of Virginia. Howard Ostergren thanked the
28 State Board of Elections for honoring his brother's memory and work, noting it was an
29 honor to accept the resolution on behalf of his brother.

30 The next order of business was the Secretary's Report delivered by Secretary
31 Palmer. The Secretary's Report is an agenda item for each Board Meeting describing

32 recent developments at SBE. Secretary Palmer reported that Justin Riemer, who was in
33 the position of Confidential Policy Advisor, has been promoted to the position of Deputy
34 Secretary. Secretary Palmer made note that this was a well-deserved promotion for
35 Deputy Riemer and extended an opportunity to congratulate Deputy Riemer.

36 Secretary Palmer noted the statewide redistricting effort was complete and the
37 process was the largest undertaking the State Board of Elections had completed this
38 decade. Secretary Palmer further indicated SBE stood poised for the next election on
39 November 8, 2011. Secretary Palmer stated the last day to register to vote was October
40 17, 2011 and November 1, 2011 was the last day to apply for an absentee ballot by mail.
41 Secretary Palmer noted that new voter cards are in the process of being delivered to 4.2
42 million voters in the Commonwealth. Secretary Palmer stated the new voter cards were
43 designed with the intention of providing voter education about the changes that would
44 affect them and SBE has reached out through social networks, such as Twitter, to help
45 explain those changes.

46 Secretary Palmer provided a bereavement report to the election community
47 reporting that Betty Persinger, wife of the Secretary of the Allegany Electoral Board;
48 Frank Persinger, had passed on September 23, 2011. Secretary Palmer acknowledged the
49 passing of Pat Harrington on September 30, 2011, the former General Registrar of
50 Virginia Beach; Chester Shell Sr. on October 2, 2011, the Vice-Chairman of the Electoral
51 Board of Scott County; and Doris Johnson on October 14, 2011, Secretary of the Louisa
52 County Electoral Board.

53 Chairman Judd then asked if there were any questions for the Secretary and
54 commented about the number of voter cards that had been replaced. Secretary Palmer
55 provided a clarification that some voter cards were replaced solely because the voter
56 Social Security Number was indicated on their voter card. Secretary Palmer noted this is
57 a statutory requirement.

58 The fifth order of business was the Material Omissions on Absentee Ballots
59 proposed regulation presented by Deputy Riemer. Deputy Riemer provided a review of
60 the documents provided in the Board Members packet that included a summary of
61 comments and suggested changes received by the public on Virginia Regulatory Town
62 Hall. Deputy Riemer submitted an example of an absentee ballot packet to the Board

63 Members. Deputy Riemer provided an overview of the statutory regulation that
64 addresses the absentee voting process, Chapter 7 of Title 24.2, which outlines the
65 requirements for voters voting absentee in the Commonwealth of Virginia. Deputy
66 Riemer noted § 24.2-707 states “that after the voter has marked his or her ballot that they
67 should enclose the ballot in the envelope provided, seal the envelope, fill in and sign the
68 statement printed on the back of the envelope in the presence of a witness who shall sign
69 the same envelope, shall enclose the ballot envelope and seal the envelope and any
70 required assistance form within the envelope and seal that envelope and mail it to the
71 Electoral Board”. Deputy Riemer stated the proposed regulation enumerates certain
72 material omissions and errors when a voter completes the statement on the back of the
73 envelope also known as the “Envelope B”. Deputy Riemer stated the voter is required to
74 complete the statement and follow the instructions enumerated in § 24.2-706. Deputy
75 Riemer notes the statement also includes a signature line for the individual who witnesses
76 the voter completing his or her absentee ballot. Deputy Riemer clarifies the statement
77 that the proposed regulation is trying to identify what errors or omissions cross the
78 threshold of the voter not following the procedures set forth in the code and consequently
79 that his or her ballot shall be rendered void. Secondly, Deputy Riemer noted that the
80 attempt is to identify what errors or omissions do not cross that threshold and therefore
81 should be consider immaterial. Deputy Riemer provided background information on the
82 proposed regulation stating it was developed by SBE Staff by request of election officials
83 due to the concern of the disparate treatment of counting absentee ballots and the lack of
84 uniformity regarding the issue in the Commonwealth. Deputy Riemer stated SBE
85 collected public comment from the election community, political parties, public interest
86 groups and other interested parties throughout the Commonwealth. Deputy Riemer stated
87 over 500 comments were received by SBE and much of that input has been reflected in
88 the regulation and has been provided to the Board Members for review. This public
89 vetting process has resulted in a proposed regulation that will allow a voter’s absentee
90 ballot to count so long as the voter makes a good faith effort at following the instructions
91 provided. Deputy Riemer emphasized that not every possible error or omission can be
92 addressed in this proposed regulation, rather this proposed regulation attempts to provide
93 some clear guidance to local election officials regarding certain errors or omissions.

94 Deputy Riemer then provided a summary of the changes suggested by SBE staff.
95 After summarizing the proposed changes, Chairman Judd requested a clarification of the
96 wrong date error provision from Deputy Riemer. Deputy Riemer noted the example of a
97 primary occurring immediately after the first of the year where a voter writes in the
98 previous year's numeric value out of habit or accident.

99 Deputy Riemer stated there was a signature legibility issue and SBE Staff
100 researched the issue on whether or not a legible signature was in fact required. Deputy
101 Riemer stated that both Virginia case law and the Virginia Code point to the fact that
102 legibility is not a requirement for signatures on the Envelope B. Deputy Riemer noted
103 there has been considerable public concern over this matter and because of that SBE
104 recommends we state for the record in the proposed regulation that the legibility of the
105 signature should not be considered a material omission or error. Deputy Riemer
106 emphasized SBE is not trying to create an all inclusive list but rather wanted to provide
107 guidance on what could be considered a material omission or error. Deputy Riemer
108 explained the "Catch All" provision and the suggestion that language should be inserted
109 to suggest that as long as the voters' identification can be ascertain by the information
110 provided on the outside or inside envelope or any pre-printed information provided by the
111 Electoral Board or the General Registrar the ballot should not be rendered invalid. The
112 "Catch All" provision would allow the voter to skip filling out Envelope B as long as the
113 voter and the voters' witness sign on the correct signature line. Deputy Riemer stated
114 SBE does not have the authority to enact the "Catch All" provision because it would be
115 contrary to the specific requirements in the Codes of Virginia. Deputy Riemer cited §
116 24.2-707 which states "the voter shall fill in and sign the statement printed on the back of
117 the envelope in the presence of a witness who shall sign the same envelope" and "failure
118 to follow the procedure set forth shall render the applicants ballot void". Deputy Riemer
119 informed the Board that, absent a change from the General Assembly, a "Catch All"
120 provision was not permissible and SBE does not recommend its' inclusion into the
121 proposed regulation.

122 Chairman Judd asked if there were comments from the Board. Joshua Lief, SBE
123 Counsel stated he agreed with Deputy Riemer's analysis that if you have a "Catch All"
124 provision then you would have a voter signing a blank statement and therefore the oath

125 would be meaningless. Chairman Judd added the scenario of two voters in the same
126 household with the same name using different suffixes, Junior (JR.) or Senior (SR.), and
127 stated that if that current requirement became immaterial then it would open the question
128 of who voted? Deputy Riemer explained that you are looking at a totality of the
129 circumstances and there may be other information the voter provided that would allow
130 the officer of election to ascertain which voter cast that ballot. Vice-Chair Bowers
131 questioned the process of getting to the point where one would receive an absentee ballot.
132 Vice-Chair Bowers expressed concerns about the address being on the back of the
133 envelope in addition to the provision stating that if the zip code is not included on the
134 envelope or the street indicator is missing the vote would be void. Vice-Chair Bowers
135 inquired to the historical explanation of voiding the vote. Deputy Riemer responded that
136 the proposed regulation allows certain omissions if the voter runs out of room while
137 filling out the envelope such as the zip code which is then not required under this
138 proposed regulation. Vice-Chair Bowers asked for a clarification on the understanding if
139 some of the information is missing on the inner envelope that the General Registrar
140 would then go to the outer envelope to make the determination. Terry Wagoner, SBE
141 Absentee and Accessibility Voting Coordinator, add that the label on the upper left hand
142 corner of the outside envelope, “delivered in the appropriate envelope directed to the
143 Electoral Board” has a specific identification number inclusive to each voter which
144 eliminates any confusion about voter ballot association. Secretary Palmer noted during
145 the preparation process SBE determined it would be a worthwhile effort to attempt to
146 redesign the Envelope B. Secretary Palmer stated SBE felt the envelope could be
147 enlarged to create more room to provide information. Secretary Palmer also noted the
148 oath is serving as the only integrity issue on the absentee ballot as chosen by the
149 Commonwealth of Virginia which requires consistency and the opportunity for
150 allowances when non-material omissions occur. Chairman Judd presented two issues
151 with the proposed regulations: C1 which states the vote shall not be rendered invalid if
152 the voter included his full name in any order of first, last and middle and C5 the voter did
153 not provide his street identifier. Chairman Judd reemphasized both of these issues should
154 be left in place to secure the integrity of the absentee ballot. Secretary Palmer asked for
155 consideration in that the Code specifically states full name and that for lack of argument

156 the order of the names should not be considered a valid reason to void an absentee ballot.
157 Secretary Palmer noted the street identifier, although clearly defined by Code as a
158 requirement, if omitted or recorded by the absentee voter incorrectly, should not be
159 considered a valid reason to void a ballot. Vice-Chair Bowers inquired about the outer
160 envelope of the absentee ballot and whether it would be suitable to place a space for the
161 voter's name and other required information on the inner envelope. Secretary Palmer
162 stated the statute only addresses Envelope B. Chairman Judd inquired if there were any
163 known instances of these invalidations occurring. Secretary Palmer stated that in previous
164 administrations there were varying opinions on what was in compliance or was not in
165 compliance and that was why the election community was seeking guidance from the
166 State Board of Elections. Secretary Palmer noted the decision is made at the local level
167 regarding the validity of the ballot. Secretary Palmer stated, "I do not think it is wise to
168 address every single issue". SBE wants to provide guidance on the major issues and leave
169 as much discretion to the localities since they are the ones who will be implementing the
170 statute or regulation.

171 Chairman Judd asked for public comments relating to the subject of Absentee
172 Ballots. Walt Latham, General Registrar of York County, addressed Vice-Chair Bowers
173 about her concern of the address on the return envelope. Mr. Latham stated when they
174 prepare the absentee ballot packet a return label is affix to the envelope, which includes
175 the voter's full name and voter ID number, so when the absentee ballot is returned to the
176 general registrar a determination can be made as to which voter is casting their vote in a
177 home that may have both a senior and a junior residing. Mr. Latham expressed his
178 appreciation to Board Members for addressing the issues around validating absentee
179 ballots and would like to see clear guidelines established by SBE. Mr. Latham informed
180 Board Members that in past elections, absentee ballot officials have reviewed the
181 absentee ballot application and then compared them to the vote received. Mr. Latham
182 expressed that sending a letter to the absentee voter that their vote did not count creates
183 community discord. Chairman Judd inquired of Mr. Latham if he was reviewing
184 Envelope B and there was not a street indicator "would you still be able to determine if
185 the voter and the information provided constituted a valid ballot?" which Mr. Latham
186 replied "Yes". Mr. Latham added his concern is that if a reasonable person would accept

187 the vote as valid where as the Code would outline the protocol for rejecting the vote
188 based off of how the absentee ballot was completed. Chairman Judd thanked Mr. Latham
189 for providing the local general registrars' perspective and asked if there were any other
190 speakers.

191 Bill Jenkins, General Registrar from Sussex County, informed the Board
192 Members he held the responsibility of validating votes in elections where victories were
193 won by a one vote margin. Mr. Jenkins expressed the concern that his locality has
194 undergone extensive redistricting and a physical address is the suggested test of eligibility
195 to vote in a district and a postal office box number is not sufficient for the test of
196 residency. Chairman Judd then thanked Mr. Jenkins for his input and reopened the floor
197 to speakers.

198 Al Ablowich, Chairman of the Virginia Beach Electoral Board, expressed concern
199 over the proposed changes B1, C2, and C3. Mr. Ablowich further detailed that B1 and C3
200 were contradictory statements. Chairman Judd stated he felt there was a contradiction in
201 the two statements and thanked Mr. Ablowich for his time. Chairman Judd called for
202 additional speakers.

203 Kirk Jones, representative of the Randolph Institute, expressed concern over the
204 proposed changes. Mr. Jones cites several examples of disparities between how local
205 government and postal services record addresses. Mr. Jones' concern was that those
206 disparities could invalidate an absentee ballot. Chairman Judd thanked Mr. Jones for his
207 time and called for additional speakers.

208 Robin Lind, Secretary of the Goochland Electoral Board, and also speaking on
209 behalf of the Virginia Electoral Board Association, addressed the different requirements
210 of the UOCOVA envelope and the requirements of Envelope B which domestic voters
211 utilize. Mr. Lind expressed it was his belief this issue had been settled last year when the
212 SBE Board adopted its' initial policy in 2010 stating that we should have uniformity and
213 expressed the Virginia Electoral Board Association would like to have those policies
214 resurrected. Mr. Lind added the requirements for military absentee ballots and domestic
215 absentee ballots should be equivalent. Mr. Lind extended an apology for some recent
216 coverage from the press, especially noting the comment "The Republican dominated
217 State Board of Elections" is not a widely held belief and believes the current Board

218 Members have conducted deliberations in a nonpartisan manner and believes this was an
219 unfair comment. Mr. Lind noted Goochland County has received absentee ballots for
220 voters in a number 10 envelope and this practice may be more common than believed.
221 Mr. Lind expressed the interest in Goochland County is “Make it Simple and Make it
222 Uniform” citing § 24.2-706 tells us our duties as General Registrars and Electoral Board
223 Members “shall not reject the application of any individual because of an error or
224 omission on any record or paper relating to the application”. Mr. Lind states there is an
225 express duty to determine whether an individual is qualified to vote and the Electoral
226 Board would feel obligated by the Code to recognize that signature. Mr. Lind suggests a
227 legislative remedy for the statement of the voter to be included on both envelopes. Mr.
228 Lind suggested this proposed regulation be reviewed further and be reconsidered after
229 this election cycle rather than rushing the process. Mr. Lind expressed this should be the
230 minimal effort to support those individuals who are serving their Country. Chairman Judd
231 thanked Mr. Lind for his time and comments and called for additional speakers.

232 Don Mark, from the Democratic Party of Virginia, submitted a letter on behalf of
233 the Chairman of the Virginia Democratic Party on the proposed regulations. Mr. Mark
234 stated the letter indicates they are opposed to any regulation changes. Mr. Mark
235 expressed concern that any type of mechanism that would alert the absentee ballot voters
236 that there is a chance that their vote would be considered invalid as a result of any
237 changes would not allow the Democratic Party the time to instruct voters due to the close
238 proximity to the November Elections. Chairman Judd thanked Mr. Mark for his
239 comments and called for additional speakers.

240 Cameron Quinn, General Registrar for Fairfax County, expressed concern over
241 the name suffix and about the street indicator requirements. Ms. Quinn stated it was a
242 challenge to pass a proposed regulation with uniformity due to issues being locality-
243 specific. Ms. Quinn noted she has recently seen discrepancies in the handwriting used on
244 the absentee ballot application verses the absentee ballot. Ms. Quinn suggested “Do
245 something today because we need the guidance in Fairfax County”. Ms. Quinn further
246 suggested “that something is better than nothing”. Ms. Quinn offered suggestions to
247 provide uniformity: If an envelope has an omission that is not addressed in this policy
248 and if the voter has completed the information required on Envelope B including his

249 name and residential address such that a majority of the officers are able to determine by
250 unanimous vote the identity of the voter then the omission shall not be material and in
251 making this determination the CAP Officers may refer to but not solely on the
252 information found in the records of the General Registrar. Ms. Quinn suggested in any
253 situation where SBE policy requires the locality to make a discretionary decision, the
254 General Registrar must provide subsequent to the election and prior to the next General
255 Assembly Session to the SBE Secretary copies of the situation for the SBE to then
256 address at a subsequent meeting. Ms. Quinn added this would minimize when discretion
257 would be used and we would have provided an opportunity for SBE to address them but
258 preserves the situations where there is no doubt as to the voters' identity. Chairman Judd
259 thanked Ms. Quinn for her comments and called for additional speakers. There were no
260 other speakers. Chairman Judd opened the discussion to the other Board Members.

261 Secretary Palmer noted that SBE has been working with the regulation and noted
262 that the comments made from the speakers further enforced that a snap decision would
263 not benefit the voter and that the proposed regulation shall be the will of the Board
264 Members. Secretary Palmer noted the desire "To get it right rather than rush a regulation
265 through may be why the previous administrations regulations were problematic".
266 Secretary Palmer stated the concerns of the Board Members, the comments from the
267 speakers, and some of the language suggested would be utilized to form a proposed
268 regulation to present after the November Election. Secretary Palmer noted that there is a
269 lack of uniformity currently and presenting a regulation with all factors considered would
270 be prudent verses expediting an unsound regulation.

271 Vice-Chair Bower agreed with Secretary Palmer's analysis of the information
272 presented and if the voters were taking the time to vote absentee that the SBE should take
273 the time to ensure there is no ambiguity in the regulation. Vice-Chair Bowers
274 emphasized once the voter has submitted their application to vote absentee the General
275 Registrar knows who has requested the ballot. Vice-Chair Bowers suggested further
276 research to include an historical recap of regulations relating to absentee ballots. Vice-
277 Chair Bowers welcomed the input from the general registrars, the electoral board, and the
278 election community.

279 Chairman Judd noted he recognized there were two different thought processes on
280 this issue: pass a proposed regulation or wait until after the November election and utilize
281 additional time and data to create a proposed regulation that could stand the test of time.
282 Chairman Judd called for additional comments.

283 Cameron Quinn, General Registrar for Fairfax County, extend an invitation for
284 the SBE Board Members to attend their CAP training.

285 Chairman Judd directed the Board members to express their will relating to this
286 proposed regulation. Secretary Palmer expressed he was thankful for the input of the
287 respective general registrars who spoke today but reiterated that a quick decision may
288 temporarily solve a few problems and waiting one more election cycle would ensure the
289 entire process was thought out. Secretary Palmer stated the Code is specific and the
290 regulation would be complex in the drafting process because of the specific requirements
291 of the Code. Secretary Palmer stated that the General Assembly was clear in their design
292 of the Code and regulations are designed to provide clarifications. Secretary Palmer
293 stated this policy change would probably not be in place before November and then
294 turned the motion over to Chairman Judd.

295 . Vice-Chair Bowers moved to pass on the proposed regulation until the next
296 Board Meeting. Chairman Judd seconded the motion and asked if there were any
297 comments on the motion. There being none, the motion was unanimously passed.

298 Cameron Quinn, General Registrar of Fairfax County, noted there is a possibility
299 of expediting the proposal through the Department of Justice in time for the November
300 election although acknowledging that she is not familiar with the current regulatory Town
301 Hall Procedures.

302 Joshua Lief, Senior Assistant Attorney General and SBE Counsel, noted if the
303 SBE Board Members passed this resolution today and it was expedited through the
304 Department of Justice, it would arrive only days before the elections which would not
305 allow for proper implementation of the changes. Secretary Palmer noted the expedited
306 process through DOJ usually takes 30 days unless it is an emergency and it is not
307 considered “Best Practice” to expedite regulations that are not true emergencies.

308 The sixth order of business was the presentation of Correction of Board Policy
309 2010-3 presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette stated that

310 following the March 2010 Board Meeting this approved policy was placed on the website
311 as required by § 24.2-103(A) within three business days. However, the version posted in
312 March of 2010 did not match the version approved by the Board. The error was
313 discovered just this past August when a general registrar called about receiving a filing
314 for May of 2012 which seemed early. Based on the posted policy SBE had to say yes but
315 were concerned we thought we had solved this problem. SBE research and discovered
316 where the problem arose in the posting to the internet, not in the Board presentation.
317 The intent of the Board was to require the filing be in the same year. SBE request the
318 Board's permission to amend the published policy to post on the web within three
319 business days of this meeting. Ms. Brissette stated that the oversight that points to a great
320 benefit of the new regulations process that the language receives several reviews before
321 publication by the Registrar of Regulations. Ms. Brissette suggested the following
322 motion: "I move that staff be directed to amend the Board Policy 2010-3 so that the last
323 sentence reads: "shall not be submitted before January 1st of the election year". Chairman
324 Judd made a motion to approve the suggested changes. Secretary Palmer seconded the
325 motion and the motion was unanimously approved.

326 The next order of business was the General Registrar Requests for Temporary Full-Time
327 Status for the City of Lexington and the City of Norton. Deputy Riemer also informed
328 the Board Members that a late arriving request for Temporary Full-Time Status for the
329 City of Galax had arrived at the SBE office on October 18, 2011. Chairman Judd gave
330 approval to add this request to the agenda. Deputy Riemer explained the Electoral Board
331 under the Budget of Virginia is allowed to seek temporary full-time status for a current
332 part-time status general registrar. Deputy Riemer cited chapter 890 of the 2011 Acts of
333 the Assembly known as the Budget of Virginia. Deputy Riemer explained authority to
334 grant this status is permitted by the State Board of Elections upon the request of a local
335 board in recognition of temporary increases in work load. Deputy Riemer stated due to
336 the March 2012 Presidential Primary and the June 2012 statewide primary for federal
337 offices the requests were reasonable. Deputy Riemer recommended Board Members
338 approve all the requests as submitted. Chairman Judd asked if there were any questions
339 from the Board or the audience and with there being none made the motion to grant
340 temporary full-time status for registrars, for the times requested, for the Cities of

341 Lexington, Norton, and Galax. Robin Lind, Secretary of the Goochland Electoral Board,
342 extended his support for the motion. Vice-Chair Bowers moved to grant full time status
343 to the named cities, Secretary Palmer seconded the motion and the motion was passed
344 unanimously.

345 The next order of business was the Political Disclaimer Violation Review for
346 Bryon Bailey, Candidate for Board of Supervisor, Isle of Wight County. Chairman Judd
347 called for Mr. Bailey to approach the podium but Mr. Bailey was absent from the Board
348 Meeting. Chris Piper, SBE Election Services Manager, explained that on September 26,
349 2011, the SBE received a complaint from a concerned citizen accompanied with
350 documentation addressing the lack of the required “Stand by Your Ad” political
351 disclaimer on his advertisement. Mr. Piper stated the staff recommendation was that Mr.
352 Bailey is in violation and should be assessed a civil penalty of \$50.00 as long as the
353 candidate provides an explanation and an apology. Mr. Piper notes that Mr. Bailey did
354 submit his penalty payment and is aware of the violation and has corrected the problem.
355 Chairman Judd moved to accept the staff recommendation and assess the civil penalty of
356 \$50.00. Vice-Chair Bowers seconded the motion and the motion was passed
357 unanimously.

358 The next order of business was the Political Disclaimer Violation Review for
359 Larry Ceola, Candidate for Board of Supervisors, Botetourt County. Chairman Judd
360 called for Mr. Ceola to approach the podium and Mr. Ceola was absent from the Board
361 Meeting. Mr. Piper explained that an email complaint was received by SBE on August
362 25, 2011, stating Mr. Ceola sent a letter to constituents requesting their support and did
363 not include the required “Stand by Your Ad” political disclaimer on his materials. Mr.
364 Piper stated that staff recommends that Mr. Ceola be assessed a civil penalty of \$50.00 as
365 long as the candidate provides an explanation and an apology. Mr. Piper states Mr. Ceola
366 has completed those requirements. Chairman Judd motioned to accept the staff
367 recommendation and assess the civil penalty of \$50.00. Vice-Chair Bowers moved to
368 pass the motion to assess the penalty, Chairman Judd seconded the motion and the
369 motion was passed unanimously.

370 The next order of business was the Political Disclaimer Violation Review for
371 “Citizens Against Deceptive Campaigning (11-05)”, Tim McCulloch. Chairman Judd

372 called for Mr. McCulloch to approach the podium and Mr. McCulloch was absent from
373 the Board Meeting. Mr. Piper explained that on September 1, 2011, SBE was forwarded a
374 complaint about an advertisement paid for by “Citizens Against Deceptive
375 Campaigning”, who registered as a Political Action Committee (PAC) several days after
376 the primary. Mr. Piper noted the flyer was mailed several days before the election and
377 were placed at polling places during the primary. Mr. Piper cited § 24.2-9952-1 stating if
378 a PAC pays for a political advertisement, the flyer must clearly identify that the candidate
379 endorses the materials. Mr. Piper informed the Board that the Treasurer of the PAC acted
380 independently and should have filed the necessary paperwork prior to the advertisement
381 being released and they have made corrective action. Mr. Piper stated staff recommends
382 “Citizens Against Deceptive Campaigning” should be assessed a civil penalty of \$100.00
383 as long as the PAC provides an explanation and an apology. Mr. Piper noted he has
384 spoken with Mr. McCulloch and is aware of the violation and has apologized. Chairman
385 Judd moved to accept the staff recommendation and assess the civil penalty of \$100.00.
386 Secretary Palmer seconded the motion and the motion was passed unanimously.

387 The next order of business was the Political Disclaimer Violation Review for
388 Richard Irvin, Candidate for Sheriff, Campbell County. Chairman Judd called for Mr.
389 Irvin to approach the podium but Mr. Irvin was absent from the Board Meeting. Mr. Piper
390 explained that a concerned citizen notified the General Registrar that Mr. Irvin produced
391 bumper stickers that did not have the required “Stand by Your Ad” political disclaimer.
392 Mr. Piper noted he has spoken with Mr. Irvin and he was aware of the violation and has
393 apologized. Mr. Piper informed the Board that Mr. Irvin has since replaced and reordered
394 bumper stickers with the disclaimer properly incorporated. Mr. Piper stated staff
395 recommendation is to assess a civil penalty of \$50.00. Chairman Judd moved to accept
396 the staff recommendation and assess the civil penalty of \$50.00. Vice-Chair Bowers
397 seconded the motion and the motion was passed unanimously.

398 The next order of business was the motion for Resolution for Pat Harrington,
399 deceased former General Registrar, City of Virginia Beach, presented by Martha
400 Brissette, SBE Policy Analyst. Chairman Judd moved the Resolution be passed and set
401 for presentation at the first available Board Meeting. Vice-Chair Bowers seconded the
402 motion and the motion was passed unanimously.

403 Chairman Judd then asked if there was any other business to come before the
404 Board. Winifred Sowder, General Registrar from the City of Williamsburg, approached
405 the podium. Ms. Sowder informed the Board that on October 14, 2011, the Williamsburg
406 Electoral Board convened to discuss issues relating to the authorized representatives
407 opinion from the Attorney General. Ms. Sowder presented the Board Members with a
408 letter concerning this issue. Ms. Sowder expressed her concerns that the Attorney
409 General's ruling would compromise the integrity of the polling place. Ms. Sowder stated
410 the portion of the opinion that allows representatives the freedom to roam around the
411 polling place removes the privacy expectation voters deserve while casting their vote.
412 Ms. Sowder informed the Board they intend to hire individuals to follow the
413 representatives throughout the polling place to protect voters' rights. Ms. Sowder noted
414 the voter may cite their social security number at the polling place as a form of
415 identification and this information could be overheard by the election representative. Ms.
416 Sowder asked the Board Members and the Attorney General to reconsider the ruling and
417 provide a clarification of the role of election representatives during voting. Joshua Lief,
418 Senior Assistant Attorney General and SBE Counsel, informed the Board that the
419 Attorney General was asked to give an opinion on the laws as written. Mr. Lief cited §
420 2.42-604(D) and § 24.2-607 that cover the representatives in the polling place and offer a
421 broad authority to govern this activity. Mr. Lief advised that Ms. Sowder should work
422 with the General Assembly to change the portions of the law that she is questioning.
423 Secretary Palmer noted SBE will be developing guidance for electoral board members
424 and when considering the parameters of authorized representatives. Vice-Chair Bowers
425 stated the discretion should be utilized among electoral board members when allowing
426 certain activities and establishing parameters from authorized representatives.

427 Chairman Judd then asked if there was any business for the Good of the Order
428 and with there being none Vice-Chair Bowers then made a motion to adjourn. Chairman
429 Judd seconded the motion and the Board unanimously approved the motion. The Board
430 shall reconvene on November 28, 2011 at 10:00AM. Chairman Judd asked for any
431 further public comments. There being none, the meeting was adjourned at approximately
432 4:55PM.

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Secretary

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