

1 MINUTES

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3 The State Board of Elections board meeting was held on Friday December 21, 2018
4 in Senate Room 3 of the Virginia State Capitol, Richmond, Virginia. In attendance,
5 representing the State Board of Elections were James Alcorn, Chairman; Clara Belle
6 Wheeler, Vice Chair. Also in attendance representing the Department of Elections
7 (“ELECT”) was Christopher E. “Chris” Piper, Commissioner; Jessica Bowman, Deputy
8 Commissioner; Samantha Buckley, Policy Analyst; and Matthew Abell, Election
9 Administrator.

10 The first order of business was the approval of the November 19, 2018 Board
11 meeting minutes, presented by Chairman James Alcorn. The Chairman Alcorn explained
12 that Secretary Singleton McAllister was under the weather and could not present the
13 minutes at today’s meeting. The Chairman moved *the Board approve the minutes from*
14 *November 18, 2018 Board meeting*. Vice Chair Wheeler seconded the motion, and the
15 motion passed unanimously.

16 The next order of business was the Commissioner’s report, presented by
17 Commissioner Piper. The Commissioner announced that Nicki Clemons, board liaison,
18 will be leaving her position soon. Commissioner Piper introduced Franchelle Tyson, who
19 is taking over the position. Commissioner Piper mentioned the Department of Election’s
20 silent auction, which took place two weeks previously. He thanked the Department for their
21 work and recognized their sacrifice and commitment. Commissioner Piper recognized an
22 ELECT staffer who is receiving a kidney transplant over the holidays. The Commissioner
23 moved on to the Special Election, thanking Amherst, Augusta, Bath, Rockbridge counties,
24 and Buena Vista City for holding smooth elections the previous week. The Commissioner
25 mentioned the recount in Virginia Beach, noting there were no updates at the moment. The
26 Commissioner provided updates to two ongoing lawsuits. Commissioner Piper mentioned
27 the Governor’s new budget, specifying new training programs to be used soon. The
28 Commissioner mentioned the new legislative session, the Special Election on January 8,

29 2019, and the Board's final meeting later in the month. Commissioner Piper thanked the
30 members of the Board and asked the board if they had any questions.

31 Chairman Alcorn asked the Commissioner about contingency plans ELECT has in
32 case there is any delay in getting the new Congressional maps approved. The
33 Commissioner said ELECT is looking closely at the maps in order to be prepared to
34 implement any plans the court deems necessary. The Chairman asked for a timeline on
35 these plans. The Commissioner answered that it takes some time, noting the work that goes
36 into the process. The Commissioner feels confident in ELECT's ability to implement new
37 maps. The Chairman asked about pushback to the other court case and the Commissioner
38 said there was none that he knew of.

39 Chairman Alcorn next brought up the November election report and thanked the
40 Commissioner for the work that went into it. Vice Chair Wheeler stated that she appreciates
41 the use of this report, but that she did not receive one. The Commissioner apologized for
42 her not receiving one. The Commissioner thanked the Chairman for his comments and
43 explained ELECT's goals in creating the report. The Commissioner recognized members
44 of ELECT who worked on the report. The Commissioner then presented some of the
45 highlights of the report to the members of the meeting. The Commissioner specifically
46 pointed out increases in voter turnout during the General Election compared to the previous
47 midterm elections in 2014. The Commissioner also pointed out the call center and the types
48 of calls received on Election Day. Next, the Commissioner noted the new voter complaint
49 system implemented for the November election. The Commissioner mentioned the three
50 localities: Chesterfield, Prince William, and Henrico, which experienced the most voter
51 complaints and said ELECT will work directly with the localities to remedy some of those
52 issues. Commissioner Piper mentioned that some precincts across the Commonwealth are
53 over capacity, presented some related concerns and said ELECT was searching for
54 solutions. Chairman Alcorn asked the Commissioner if the three localities mentioned in
55 the report also reported long lines on Election Day. The Commissioner confirmed that this
56 was the case, though long lines were not specifically reported. Chairman Alcorn said that
57 he appreciated the report for its objective, non-partisan perspective to allow localities to
58 improve for the next election. The Commissioner mentioned a specific section of the report

59 regarding Hopewell City. Finally, the Commissioner read aloud the “Best Practices”
60 section of the report which stated recommendations for the future to ensure elections run
61 more smoothly. The Commissioner then asked if the Board had any more questions
62 regarding the report. Chairman Alcorn suggested that ELECT show how the metrics in the
63 report have changed over time in order to see where improvements are being made. The
64 Commissioner again pointed out the work of ELECT staff on the election report and
65 election officials across the Commonwealth in helping pull off a successful election.

66 Vice Chair Wheeler pointed out that the most important thing is to learn from past
67 mistakes. The Vice Chair acknowledged, specifically, the problems in Chesterfield County
68 related to long lines and overcrowding at precincts, and said they need to be investigated.
69 Vice Chair Wheeler asked if there was anyone present at the meeting representing
70 Chesterfield County; there was no one. The Vice Chair suggested someone come in to
71 answer for some of the issues that occurred in that locality on Election Day. Chairman
72 Alcorn acknowledged Vice Chair Wheeler’s concerns. Chairman Alcorn asked what the
73 Board should do about this, suggesting better oversight of training standards for officers of
74 elections. The Chairman highlighted the report once again as a useful tool in solving
75 problems in the future, and acknowledged that the 2018 General Election was more
76 successful than many in the past. The Vice Chair said that representatives from the
77 localities that experience issues on Election Day should come to a board meeting to state
78 their cases. The Chairman agreed with this idea.

79 The Vice Chair mentioned that the citizen portal on the Department of Elections
80 website was working “irregularly”, which prevented people from knowing where, and if,
81 they could vote. The Chairman acknowledged the web tool on ELECT’s website that
82 allows voters to see on a map where they are supposed to vote. Commissioner Piper told
83 Vice Chair Wheeler that ELECT would be more than willing to prepare responses to her
84 concerns if she would like to have them. The Vice Chair said she would.

85 The next order of business was to amend to the candidate petition regulation. Ms.
86 Samantha Buckley recalled the October 9, 2018 Board meeting where the Board proposed
87 amendments to the material admissions from candidate petitions and petition signature
88 qualifications. Ms. Buckley acknowledged one comment from the public on the

89 amendments. Ms. Buckley said ELECT still suggests the amendments be adopted as
90 proposed starting January 1, 2019. Chairman Alcorn asked why ELECT was continuing
91 with the language of the amendment. Ms. Buckley said the way the amendment is proposed
92 now is a better way of answering comments originally made for the ongoing Shaun Brown
93 case. Chairman Alcorn then asked a question about address changes of candidates. Ms.
94 Buckley said that if the candidate updated their registration the petition signatures received
95 before the address change could be considered a material admission.

96 Vice Chair Wheeler then asked for clarification about the amendment in regards to
97 a candidate's residential and voting addresses matching, and Ms. Buckley provided an
98 answer confirming her understanding. Vice Chair Wheeler suggested that the petition
99 amendment puts an undue workload on the registrar and is unfair to a candidate. Deputy
100 Commissioner Bowman noted that the outcome with and without the amendment to the
101 petition regulation is not ideal, but that the amendment is a means going forward due to the
102 court order. Ms. Buckley stated that the amendment is a compromise with the public
103 comment and court orders. The Vice Chair asked for clarification about a specific part of
104 the amendment regarding identification of a petition signee by name. Ms. Buckley
105 reiterated that the main focus of the amendment is about the change of address of a
106 candidate. Commissioner Piper acknowledged that there is most likely a very small chance
107 of a candidate being caught up in the effects of the amendment. Chairman Alcorn asked if
108 there was any public comment on the amendment. The York County General Registrar,
109 Walter Latham, asked about moving a provision of the amendment to a different section.
110 Commissioner Piper asked if Counsel could weigh in on the amendment. Ms. Buckley
111 noted that since there were multiple changes to the regulation the Board could opt to wait
112 to make a decision, in which case the changes would go in effect in 2020.

113 Chairman Alcorn suggested the Board move forward on the amendment.
114 Commissioner Piper suggested waiting on passing the amendment until any uncertainties
115 could be answered and present a stronger version of the amendment. Commissioner Piper
116 asked Chairman Alcorn if this was okay. Vice Chair Wheeler suggested passing Section
117 E9 of the amendment. Chairman Alcorn moved *the Board strike the changes made to*
118 *IVAC20-50-20 Sec. B*. Vice Chair Wheeler seconded the motion, and the motion passed

119 unanimously. Chairman Alcorn then moved *the Board adopt the proposed amendments to*
120 *IVAC 20-50-20 Material Admissions from Candidate Petitions and Candidate Signature*
121 *Qualifications for enactment on January 1, 2019.* Vice Chair Wheeler seconded the
122 motion, and the motion passed unanimously.

123 The next order of business dealt with election certification. Election administrator,
124 Matthew Abell, presented to the board. Abell mentioned Congressional District 6 and
125 Congressional District 11, noting that candidates and write-in totals in both districts went
126 down after recertifying the results. Abell then asked the Board if there were any questions
127 regarding the certifications.

128 Chairman Alcorn asked what Buena Vista did to find the errors in their election
129 results. Abell said the statement of results might have been interpreted incorrectly. Abell
130 also noted that Buena Vista was the more concerning case of the two, given that there were
131 more votes than turnout in the results. Abell identified various factors that could have
132 contributed to the discovery of the error. Abell also reiterated that no election outcomes
133 were in doubt. Commissioner Piper pointed out that additional checks and reports
134 developed over the years allows ELECT to uncover mistakes better. He also stated his
135 appreciation for working close with General Registrars. Abell stated that ELECT has gotten
136 better at election verification. Vice Chair Wheeler thanked ELECT for their hard work in
137 verifying the election results. Abell then presented the Board with state certification
138 documents for signature. Chairman Alcorn then *moved to certify the results from District*
139 *24 as presented.* Vice Chair Wheeler seconded. The motion passed unanimously. Chairman
140 Alcorn *moved to certify the results from District 6 as presented and sign the abstracts.*
141 Vice Chair Wheeler seconded. The motion passed unanimously. Chairman Alcorn then
142 *moved to certify the results from District 11 as presented and sign the abstracts.* Vice Chair
143 Wheeler seconded. The motion passed unanimously. Abell then presented the abstracts to
144 the Board and the Board signed them.

145 Chairman Alcorn *moved to recess for 5 minutes.* Vice Chair wheeler seconded and
146 the motion passed unanimously.

147 The next order of business was to discuss the issue regarding “Republicans for
148 Stanley Bender” signs placed outside precincts during the November General Election.
149 Commissioner Piper said he heard about the issue at the last Board meeting. He said a PAC
150 was created that did not go through the proper procedures in order to use a candidate’s
151 name. The Commissioner said ELECT send a letter to the PAC on December 4, 2018
152 requiring the necessary signed letters from the named candidate but has not received them
153 yet. The Commissioner said the letters were due December 14, 2018. Chairman Alcorn
154 said the Board cannot determine willful violation of the code, and that the Commonwealth
155 Attorney would be responsible for determining that. Commissioner Piper reiterated that the
156 Commonwealth Attorney was currently doing just that. Chairman Alcorn agreed that
157 utilizing the Commonwealth Attorney was the right step to take and to wait and see what
158 they recommended. Vice Chair Wheeler asked for clarification on whether the Board had
159 been briefed by Counsel on this issue. Counsel answered that Vice Chair Wheeler had not
160 been specifically briefed.

161 Chairman Alcorn recommended waiting for the Commonwealth Attorney to
162 investigate the issue. The Chairman then opened the floor to questions from the public.
163 Members of the public proceeded to express concerns about the validity of the election
164 results of the office affected by the posters. A Prince William County Republican Party
165 representative presented other campaign posters from previous years he believed misled
166 voters.

167 Chairman Alcorn then recapped the options for the Board in regards to the Stanley
168 Bender posters issue. The Chairman asked Commissioner Piper if the Board has to give
169 notice before a Statement of Organization and whether or not that has been done yet.
170 Commissioner Piper responded, saying that the statute of limitations on a notice is one
171 year. Vice Chair Wheeler asked Counsel if a \$500 fine was the most that can be awarded
172 for this code violation. Counsel answered yes. Vice Chair Wheeler agreed with the public’s
173 statements on the severity of this issue. The Vice Chair asked counsel if there were any
174 concerns waiting for criminal proceedings. Counsel answered no. Commissioner Piper
175 mentioned there is a distinction between a Statement of Organization and report. The
176 Commissioner continued, saying there are clear requirements for a Statement of

177 Organization. The Commissioner reiterated that ELECT and the Board do not have any
178 investigative power.

179 Chairman Alcorn clarified that the election results cannot be changed since they
180 have already been verified. The Chairman also stated that the Board cannot make
181 recommendations regarding punishment. The Chairman *moved to levy a \$500 fine against*
182 *the PAC*. Vice Chair Wheeler seconded and the motion passed unanimously.

183 A member of the public then commended ELECT's post-election report. Henrico
184 County General Registrar, Mark Coakley, agreed with the Board's request that localities
185 be present for Board meetings. Mr. Coakley mentioned that Henrico split its only precinct
186 with more than 5000 registered voters. Mr. Coakley asked what happens to precinct size
187 given the precinct freeze scheduled for February 1, 2019. Vice Chair Wheeler thanked Mr.
188 Coakley for being present. The Vice Chair asked Mr. Coakley if he is in favor of changing
189 the delay in fixing problems in other localities who find themselves unable to get something
190 changed before February, and if the General Assembly should look into this. Mr. Coakley
191 said that General Registrars have an obligation to know the code. Mr. Coakley mentioned
192 that the General Registrars were instructed to send out three notices of precinct changes.
193 Vice Chair Wheeler acknowledged that voter registration is only going to go up. The Vice
194 Chair asked Mr. Coakley if it would be useful for the General Assembly to revisit the issue.

195 Mr. Coakley mentioned other ways to approach the issues besides splitting
196 precincts. Mr. Coakley suggested providing more poll books and scanners would be a
197 practical way to address large numbers of voters.

198 Chairman Alcorn asked if there were any more questions from the public. The
199 Chairman then *moved to adjourn for the day*. Vice Chair Wheeler seconded and the motion
200 passed unanimously. No date was set for the next meeting.

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202 Secretary

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204 Chair

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206 Vice Chair

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