

MINUTES
Fairfax County Electoral Board
September 26, 2017

The Fairfax County Electoral Board (Board) met on Tuesday, September 26, 2017, in Conference Room 315 at the Fairfax County Government Center located at 12000 Government Center Parkway, Fairfax. Vice Chairman Seth T. Stark, Secretary Katherine K. Hanley, General Registrar Cameron Glenn Sasnett, Deputy Registrar Gary Scott, Election Manager Judy Flaig, IT Director Erica Newsome, Erin Ward, Senior Assistant County Attorney, Martin Desjardins, Assistant County Attorney, and Clerk to the Board Beth Dixon Methfessel were present. Keith Damon representing the Fairfax County Republican Committee (FCRC); Donna Rostant representing the Fairfax County Democratic Committee (FCDC); Olga Hernandez representing the Fairfax League of Women Voters (LWV); John Farrell, member of FCDC, Jim Lyle of FCRC, and Jean Thoensen, Fairfax County resident, also attended the Electoral Board meeting.

Vice Chairman Stark, as Acting Chairman, called the meeting to order at 4:02 p.m. and introduced himself and Secretary Hanley. Mr. Stark asked all present to introduce themselves.

Mr. Stark called for a motion to approve the September 26, 2017, meeting agenda. Ms. Hanley moved to approve the agenda, and by a vote of 2-0, the September 26, 2017, meeting agenda was adopted.

Ms. Hanley commented that there is precedence for allowing Fairfax County Electoral Board members to participate remotely in meetings, however, the law has changed and now requires that a policy be in place prior to allowing remote participation by Board members.

Mr. Stark then read the following statement:

“I want to acknowledge that the Electoral Board’s Chairman, Stephen M. Hunt, is not physically present but is listening over the telephone. As a result, and in accordance with Virginia law, at this time during the meeting, Mr. Hunt cannot and will not participate in the meeting in any way. Under Virginia Code § 24.2-107, the presence of two members of this Electoral Board constitutes a quorum, so even in Mr. Hunt’s absence this Board may act.

Virginia Code § 2.2-3708.1 permits remote participation by members of this and other boards under certain circumstances, but requires as a prerequisite that the Board have in place a policy permitting member participation in Board meetings from a remote location. Therefore, and to ensure full participation of the Board at this meeting, the second item on this afternoon’s agenda will be the passage of such a policy.”

Mr. Stark then moved that, pursuant to Section 2.2-3708.1 of the Code of Virginia, the Electoral Board adopt its *Policy to Permit Participation in Board Meetings by a Member from*

a Remote Location (attached and made a part of this record). This policy will be effective immediately upon adoption so Chairman Hunt may participate in today's meeting. The motion passed by a vote of 2:0.

Mr. Stark noted that since only he and Ms. Hanley participated in the vote on this policy, the Board may want to review and reconsider this policy in the future when all three members can participate.

Mr. Stark then stated for the record that in accordance with Section 2.2-3708.1(A)(2) of the Virginia Code and Section 5(a) of the Electoral Board's *Policy to Permit Participation in Board Meetings by a Member from a Remote Location*, the Board was notified in writing (attached and made a part of this record) that Chairman Stephen M. Hunt is unable to physically attend this meeting of the Electoral Board due to a temporary medical condition, and that he intends to attend this meeting remotely. In so doing, Chairman Hunt has satisfied the requirements of Virginia law and Section 5(a) of the Electoral Board's policy. As a result, Chairman Hunt is permitted to attend this meeting from a remote location by electronic means and will be attending remotely from INOVA Mt. Vernon Hospital. He will now participate in the remainder of the meeting.

Mr. Stark then welcomed Mr. Hunt, whose voice was heard by telephone by all persons physically present at the meeting. The Board thanked Erin Ward and Martin Desjardins for their outstanding effort in putting the process and policy together to allow Mr. Hunt to participate in the meeting.

Mr. Stark called for a motion to appoint 98 election officers (EOs) (65 Democrats, 10 Independents, and 23 Republicans) for a term ending February 28, 2018. Ms. Hanley moved to adopt and by a vote of 3-0, the Board appointed 98 (65 Democrats, 10 Independents, and 23 Republicans) individuals to serve as EOs for a term ending February 28, 2018.

Mr. Stark called for a motion to approve the Draft Minutes from the August 17, 2017, and the August 30, 2017, Electoral Board meetings. Ms. Hanley moved for approval, with the following corrections; August 17, 2017, page 2, paragraph 6, change "slid" to "slide"; and August 30, 2017, page 1, paragraph 3, change "John Farrell, representing candidate Karen Keys-Gamarra" to "Keith Damon, representing candidate Chris Grisafe." By a vote of 3-0, the August 17, 2017, and the August 30, 2017, Minutes, as corrected, were adopted.

Mr. Sasnett presented the General Registrar's (GR) report (see attached September 21, 2017 GR Report).

Under Voter Registration Activity and Statistics, Mr. Sasnett noted that with the upcoming November election, the number of third party registrations is increasing. Since the last GR's report, an additional 1,562 absentee ballot applications have been mailed out. Approximately 100 people voted in-person on the first day of in-person absentee voting.

Under Accountability and Standards, the Machine Custodian position was advertised and closed. Interviews were conducted, and recommendations will be presented in Closed

Session. The position of Election Manager to replace the retiring Judy Flaig will post for two weeks beginning on September 30. A workforce planning meeting is scheduled for September 28 to discuss the "election specialist series." Ms. Hanley asked Mr. Sasnett for a chart illustrating the series he proposes, and Mr. Sasnett responded that he will prepare a chart after the workforce planning meeting. FY19 budget submissions are being developed, including the DIT/104 funding request based on the increased use of technology to support elections. This includes standing up a voter registration system separate from the state's VERIS but would still interact with it. Ms. Hanley asked if the state would allow a separate system and has Fairfax County asked whether it can pursue implementing such a system. Mr. Sasnett replied that no locality has attempted it. He is examining the cost and has asked the county attorneys to research if such a system is legally allowed. Ms. Hanley asked that the cost and the research be submitted to the Board when completed.

The September 8 all staff training and team building was successful. The training focused on a new policy regarding data and information security standards with an emphasis on workstation security. Judy Flaig was recognized at the event for her 25 years of service to Fairfax County.

Under Technology and Innovations, all but 5 precincts returned their PollPads after the August 29 Special Election. The Office of Elections (Office) will host two vendors in order to conduct a small pilot (5 precincts each) of their respective election night results reporting systems. The final voter registration encrypted hard drives are scheduled to be delivered on September 30.

Under Election Administration, 1,994 of 2,545 (target) EOs with 214 Chiefs and 226 Assistant Chiefs have been assigned. Logic and Accuracy testing for the voting machines to be used in the precincts is set to begin on September 25. Supplies, including ballots, for the carts and kits are being organized and packed. Individualized instructions, forms, and maps are being prepared for the five split precincts: Lane, Baileys, St. Albans, Weyanoke, and Camelot. Contingency and security information will be sent to the police and emergency contacts after Columbus Day. Relocation sites will be the same as for the August Special election.

Under Language Implementation, careless translation mistakes continued to be made by the vendor necessitating staff to secure two election officers fluent in Vietnamese and Korean to translate the remaining voting materials. The Department of Justice (DOJ) contacted the office with the results of their precinct visits in June 2017. After interviewing some of the Spanish translators at a select number of locations, DOJ concluded they were not sufficiently fluent in Spanish. DOJ recommended establishing a program to determine an election officer's fluency level prior to designating the election officer as bilingual. FCRC asked if the Board was aware that the DOJ would be inspecting polling locations, and the Board responded affirmatively.

Under Voter Registration, the on-line voter registration application submission rate of approximately 750/day has not significantly increased over the last three months. The Voter Participation Center mailed approximately 53,000 notices in Fairfax County the week after

Labor Day. The Office has received fewer than 400 responses to this mailing. Applications have increased as a result of third-party drives, however, a large number have been rejected as incomplete. The most common omissions are social security number, valid address, and signature. Mr. Sasnett urged third party registration groups taking more than 25 applications to take the state-mandated training.

Under Voter and Community Outreach, the third party voter registration classes were offered in both Vietnamese and Spanish, however, both were cancelled due to lack of participation.

Voter registration cards, absentee ballot applications, and the November 7 Election palm cards in all four languages have been mailed to all Fairfax County libraries as well as the Board of Supervisors. The all-voter sample ballot mailer is scheduled to go out to voters the first week of October (sample attached and made a part of this record.)

Under General Update, the Department of Elections (ELECT) incorporated ballot tracking in outgoing mail labels. This tracking system provides significant metrics for monitoring how long it takes for mail to reach voters once it has left the Office.

Ms. Hanley passed out a chart indicating how many election officers still need to login to the new election officer management system, PollChief. Approximately 1000 election officers have not checked in. So if election officers report that they are not being asked about their availability for upcoming elections, she encouraged the Parties to explain that the reason may be they have not created a PollChief account. Because PollChief is now the primary mechanism for communication, all election officers have been emailed login instructions numerous times. FCDC requested the election officer assignments and Ms. Flaig commented that once the assignments are sent out for confirmation on Monday, October 2, the Office will forward a copy to FCDC and FCRC.

FCRC asked how the issue of omitting eligible 17 year old voters from the pollbooks for the August 29 Special Election was corrected. Mr. Sasnett explained the VERIS system omitted these particular voters, approximately 400 of them, because the election rules that were defined in VERIS for the August Special were *probably* (emphasis added) set as a General election instead of a Special Election, therefore, 17 year olds would not have been included in the voter file export. Mr. Sasnett further noted that ELECT has not yet responded to the request for an explanation for this oversight. FCRC expressed extreme disappointment with the error and the lack of response from ELECT. Ms. Hanley asked the GR to cross-check the voter files prior to the November election to ensure their accuracy.

John Farrell raised the question why green paper was not included in the election supplies to allow provisional voters to offer a written explanation to be attached to their provisional ballot or placed inside the 1A Envelope. He asked if this was a change in policy. Ms. Flaig answered that she has no recollection of providing blank green paper, but a notepad is provided for written notes.

Under the Chairman's report, Mr. Hunt thanked the Board for allowing him to participate electronically. His recovery is proceeding well.

There was no Vice Chairman's or Secretary's report.

There was no Old Business or New Business.

Under Public Comments, FCDC asked the Board if any outside groups have requested that the voter rolls be "cleaned." Mr. Sasnett reported that no outside groups have made a request of this kind.

LWV wanted to address the notice from the Department of Homeland Security to ELECT that Virginia's election may have been hacked. Mr. Sasnett responded that no further communication has been received regarding this issue.

John Farrell remarked that an individual was reported in the New York Times to have voted in Virginia in November of 2016, but had sold his house in July of 2016. Based on the law, he should not have been permitted to vote. Mr. Farrell asked if this situation had been reported to the Commonwealth's Attorney. Mr. Sasnett replied that based on the County's records, the information in the media report appears accurate, but in the absence of an official notice, no action has been taken other than placing the voter on inactive status due to failure to reply to a confirmation mailing in July of 2017. FCRC agreed that this should be reported to the Commonwealth's Attorney. The Electoral Board directed Mr. Sasnett to forward this incident to the Commonwealth's Attorney.

The pre-election Board meeting will be Friday, November 3, 2017, at 4:30 p.m. in Conference Room 315.

Mr. Stark moved that the Board enter into a Closed Session to discuss specific personnel matters, as permitted by Va. Code § 2.2-3711(A)(1); and to consult with legal counsel regarding specific legal matters relating to social media policy requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A)(8), including legal analysis of the July 25, 2017, opinion in *Davison v. Loudoun County Board of Supervisors*, U.S. District Court for the Eastern District of Virginia, case number 1:16cv932.

Without objection, and by a vote of 3-0, the Board entered into Closed Session at 4:58 p.m.

At 6:32 p.m. the Board concluded the Closed Session. Mr. Stark noted that Mr. Hunt left the Closed Session at approximately 5:30 p.m. He then read the following statement:

"In accordance with *Virginia Code* § 2.2-3712(D), I am asking the Secretary of the Electoral Board to conduct a roll call vote to certify that to the best of each member's knowledge that (i) only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were conducted in the closed meeting and (ii) only such public business as was

