

MINUTES
Fairfax County Electoral Board
November 3, 2017

The Fairfax County Electoral Board (Board) met on Friday, November 3, 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, Senior Assistant County Attorney Erin Ward, Assistant County Attorney Martin Desjardins, Assistant County Attorney Joanna Faust, Public Information Officer Lisa Connors, 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-F); John Farrell, representing the Justin Fairfax campaign; Jim Lyle of FCRC; and Maggi Luca of LWV-VA attended the Electoral Board meeting. Various Office of Elections (Office) staff also were present.

Vice Chairman Stark, as Acting Chairman, called the meeting to order at 4:30 p.m. and introduced himself and Secretary Hanley. Mr. Stark read the following statement,

“Chairman Stephen M. Hunt has notified the Board in writing that he is unable to physically attend this meeting due to a temporary medical condition that prevents his physical attendance at the meeting, and of his intent to participate remotely. Pursuant to Va. Code § 2.2-3708.1 and the Electoral Board’s *Policy to Permit Participation in Board Meetings by a Member from a Remote Location*, Chairman Hunt is permitted to participate in this meeting from a remote location by electronic means and will be participating remotely from his home.”

Mr. Stark then welcomed Mr. Hunt, whose voice was heard by telephone by all persons physically present at the meeting.

Mr. Stark called for a motion to approve the November 3, 2017, meeting agenda. Ms. Hanley said that there would not be a Closed Session, and moved to approve the agenda with this change. By a vote of 3-0, the November 3, 2017, meeting agenda was adopted.

Mr. Stark called for a motion to appoint 117 election officers (EOs) (64 Democrats, 26 Independents, and 27 Republicans) for a term ending February 28, 2018. Ms. Hanley moved to adopt and by a vote of 3-0, the Board appointed 117 election officers (EOs) (64 Democrats, 26 Independents, and 27 Republicans) individuals to serve as EOs for a term ending February 28, 2018.

Mr. Stark asked each individual attending the meeting to identify themselves for the record.

Mr. Stark called for a motion to approve the Draft Minutes from the September 26, 2017, Electoral Board meeting. Ms. Hanley moved for approval, with the following corrections; page 5, adding the second reason for the Closed Session; and page 1, changing a typo in Jim Lyle's affiliation from FCDC to FCRC. By a vote of 3-0, the September 26, 2017, Minutes, as corrected, were adopted.

Mr. Sasnett presented the General Registrar's (GR) report (see attached November 3, 2017 GR Report). The report was not circulated in advance since the Office was focused on election preparation.

Mr. Sasnett reported that he and Patty Reilly met with the local political committees, as well as well as representatives from the campaigns for Governor, Lt. Governor, and Attorney General, to review pre- and post-election procedures. He instructed the representatives to address any questions or concerns that might arise to the Electoral Board. Mr. Sasnett and Ms. Flaig co-taught the Chiefs and Assistant Chiefs training classes.

FCRC asked how many absentee ballot applications were received after the deadline on October 31, 2017. Mr. Sasnett replied that he would provide those statistics. He added that the state's portal was suspended at the deadline of 5:00 p.m., October 31, 2017, so that no additional applications would be submitted.

Under the Chairman's report, Mr. Hunt said he was looking forward to Election Day and the Canvass.

Under the Vice Chairman's report, Mr. Stark congratulated Mr. Hunt on remarkable progress in his recovery. He said he looked forward to Mr. Hunt's return for the election and the Canvass.

Under the Secretary's report, Ms. Hanley distributed an update to the chart indicating how many EOs still need to log in to the new election officer management system, PollChief. The number of EOs who have not checked in has dropped from 999 to 807. FCRC asked if PollChief might be configured to allow the parties to see their EOs that have not created an account in PollChief. Ms. Hanley responded that she would follow-up with this recommendation.

Ms. Hanley handed out a chart comparing absentee voting statistics from 2013 to 2017. Presently, 6000 more have voted in-person in 2017 than the total number who voted absentee in 2013. Ms. Hanley observed that the growth of absentee voting over the past four years indicates a change in the voting behavior of Fairfax County voters. Mr. Stark commented that he voted absentee (Government Center) prior to the meeting and remarked on the professionalism of the election officers and the efficiency of the process.

There was no Old Business.

Under New Business, Ms. Hanley said that the current Deputy Machine Custodian, Henry Rackowski, is retiring at the end of the year, and to allow a transition period, the Board

should appoint his replacement forthwith. She moved that Tom Bjerke be appointed as a Deputy Machine Custodian, effective immediately, with pay commensurate with that of the current Deputy Machine Custodian. The motion passed by a vote of 3-0.

Under Public Comments, FCDC requested that the reason for casting a provisional be included on the provisional ballot log. FCDC explained that adding the reason code will eliminate unnecessary calls to provisional voters who fall into categories that do not require a call when the Parties “flush” voters in the event of close contests. Mr. Sasnett read an email from Commissioner Edgardo Cortés reaffirming the 2013 guidance that the reason for casting a provisional ballot is confidential information and must be redacted. Mr. Farrell objected, opining that HAVA only restricts “seeing the ballot.” Providing the reason code would prevent an excessive number of voters being contacted, alleviating their need to appear before the Board, and eliminating an undue burden on staff.

FCDC asked if the larger Conference Rooms 9 and 10 would be available for the Canvass. The Board responded that another function has been scheduled in Conference Rooms 9 and 10, so Canvass will be held in Conference Rooms 2 and 3. Ms. Hanley noted that Conference Rooms 9 and 10 are now smaller after the construction of Conference Room 11, however, the Clerk will follow-up on whether the functions can be switched.

FCDC requested that provisional voters who failed to sign the provisional envelope be contacted and offered the opportunity to provide a signature. Mr. Stark and Ms. Hanley favored following past practice of one gratuitous phone call to these provisional voters. Mr. Hunt cautiously agreed, but pointed out that research is the priority because the election must be certified within one week. FCRC opined that this practice gives a group of voters a “second chance” after casting their ballot. LWV-FX commented that to do otherwise, unfairly punishes the voters for the “Chief or Assistant Chief’s mistake.” Mr. Sasnett asserted that sometimes voters refuse to provide certain types of information, so the lack of signature on a provisional envelope cannot unequivocally be blamed on the Chief or Assistant Chief.

Ms. Hanley, without assuming the fault lies with the Chief or Assistant Chief Election Officer, moved that the past practice of contacting voters who failed to sign the provisional envelope be followed. The motion passed by a vote of 3-0.

FCDC asked if green paper could be provided for written statements by provisional voters in order to distinguish it from other notes that are submitted on white paper. Mr. Sasnett explained that while he was amenable to this request, the kits had already been packed and distributed. In the Chief’s training, however, they were reminded that written statements on any of the paper provided could be attached to the outside (not the inside) of the provisional envelope. The suggestion to use green paper will be considered for future elections.

Mr. Farrell asked that voters who do not sign their provisional envelope be identified on the provisional ballot log provided to the Parties. Mr. Hunt reiterated his position that requiring staff to provide more information on the log may delay its distribution, and the research required in order to complete the provisional process.

The Board asked the county attorneys present if this information (lack of signature) can be added to the provisional log and provided to the Parties. Ms. Ward commented that the guidance specifies what is confidential and cannot be released and what is not confidential and can be released, but it does not speak to whether or not the name of a voter who failed to sign the provisional ballot envelope can be released. Ms. Hanley moved that the county attorneys, in conjunction with guidance from ELECT, provide an opinion on adding the lack of signature column to the provisional ballot log, and determine if it is permissible to disclose such information to the Parties. If it is deemed non-confidential, then lack of signature will be released. Mr. Hunt commented that while he generally favors the motion, he is concerned that staff is being asked to do more on behalf of the Parties in a fixed time frame that should be dedicated to certifying the election as quickly as possible. The Board passed the motion by a vote of 3-0.

FCDC fielded a complaint that an election officer in one of the satellites relayed information that for curbside voting only one bus could be accommodated at a time. FCDC will provide additional detail on this incidence.

FCDC wants to discuss the registration efforts at the University precinct after the conclusion of the November 2017 election.

Since the issue of the translation vendor making careless errors was raised at the last Board meeting, LWV-F asked if the language translations had been completed. The Board responded that the translations have been corrected and completed. LWV-F also inquired about an update on implementing a separate voter registration system. Mr. Sasnett responded that the priority on this project is low at this time. Outstanding questions still remain on the legality and the cost of such a system.

As directed by the Board at the last meeting, Mr. Sasnett forwarded to the Commonwealth's Attorney an individual that voted in Virginia in November of 2016, but had sold his house in July of 2016. The Commonwealth's Attorney responded that the individual admitted to not checking his eligibility in Virginia prior to returning to Virginia to vote. The opinion concludes that while these actions were negligent, they do not fall within the scope of criminal conduct as contemplated by Va. Code 24.2-1004. His actions, rather, amounted to an unintentional mistake. No charges will be pursued.

The Canvass of the November 7, 2017, General and Special Elections, will be held on Wednesday, November 8, 2017, beginning at 9:00 a.m. in Conference Rooms 2 and 3. The schedule for the Canvass was discussed, however, the Board agreed to wait until Wednesday, November 8, to set the final timetable.

There being no further business, Mr. Stark moved to adjourn. The motion carried, and without objection, the meeting was adjourned at 5:33 p.m.

Attachments

Stephen M. Hunt, Chairman

Seth T. Stark, Vice Chairman

Katherine K. Hanley, Secretary

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