

MINUTES
Fairfax County Electoral Board
August 26, 2021

The Fairfax County Electoral Board (Board) met on Thursday, August 26, 2021, in Conference Room 315 at the Fairfax County Government Center located at 12000 Government Center Parkway, Fairfax. Chairman Stephen M. Hunt, Vice Chairman Bettina M. Lawton; Secretary Katherine K. Hanley; General Registrar Scott O. Konopasek; Election Manager Eric Spicer, and Clerk to the Electoral Board Beth Dixon Methfessel were present.

Jack Kiraly, Executive Director of the Fairfax County Democratic Party (FCDC); Gregory Brandon (FCDC Central Communications), Richard Chew (FCDC Hunter Mill District Chair); Johnna Sachse and Jeffrey Shapiro, members of the Fairfax County Republican Committee (FCRC) Election Integrity Committee; Arina van Breda and Maggi Luca, representing the League of Women Voters (LWV); DIT Architect Kim Satterthwaite; Assistant Registrar Cheryl Jones; IT Manager George Panagakos; Election Officer Manager Ravi Udeshi; Supply Manager Kay Garrison; Acting Supervisor of Voter Registration Bushra Ardalan; Election Officer Assistant Coordinator Alina Selnick-Escobar; Office of Elections (Office) staff Sean Stewart; and Geoff Akey, Angela Boyer, Jason Buntin, and Jean Thoensen, Fairfax County residents, also attended the meeting in person.

The following individuals participated using the Zoom videoconferencing platform: Public Information Officer Brian Worthy; Assistant Registrar Helen Chaikovsky; Voting Equipment Manager Tyrone Allen; Andrea Bayer, Christine Brim, and Keith Damon (FCRC Election Integrity Committee); Kristin Cabral and Stephen Spitz (FCDC Election Law and Voter Protection); Donna Rostant (FCDC General Counsel), Maria Vorel (FCDC Precinct Operations), and Janice Yohai (FCDC Voter Registration and Education); Susan Daniels, Dan Per-Lee, and Jerald Taylor, Office staff; and Sandra Bellinghoven, Fairfax County resident.

Mr. Hunt called the meeting to order at 5:03 p.m. and introduced the Board. Mr. Hunt moved that a moment of silence be held for the thirteen United States service members killed in Afghanistan earlier today. The Board approved the motion by a vote of 3:0, and a moment of silence was observed.

Ms. Hanley moved approval of the agenda. By a vote of 3-0, and with no objection, the August 26, 2021, meeting agenda was adopted.

Mr. Hunt asked for approval of the Draft Minutes of the Board meeting held on July 22, 2021. Ms. Hanley moved approval, and by a vote of 3-0, the Minutes of the Board meeting held on July 22, 2021, were adopted.

Mr. Hunt asked for a motion to appoint 76 election officers (17 Democrats, 16 Independents, and 43 Republicans) for a term ending on February 28, 2023. Ms. Hanley moved approval, and by a vote of 3-0, the Board appointed 76 election officers (17 Democrats, 16 Independents, and 43 Republicans) for a term ending February 28, 2023.

Under the General Registrar’s report dated August 24, 2021, (attached and made a part of this record), Mr. Konopasek updated the voter registration numbers as of August 23, 2021:

	<u>Change since July 20, 2021</u>
Active Voters: 727,751	-17,093
Inactive Voters: 43,096	+13,817
Total: 770,847	-3,276

The number of active voters went down after the completion of July’s scheduled list maintenance.

On June 22, 2021, the Board of Supervisors approved the creation of new precincts to eliminate four House of Delegate district splits. The new precincts are Lane #1, Lane #2, Baileys #1, Baileys #2, Weyanoke #1, Weyanoke #2, Camelot #1, and Camelot #2. No new polling places were added; all voters will continue to utilize their “pre-split” polling place. Unresolved technical glitches with VERIS however, are preventing system updates. It is expected that these complications will be resolved over the next several days. Mr. Konopasek recognized Ms. Ardalan and Ms. Methfessel for their efforts in working through the issues with the Department of Elections (ELECT) to finish this assignment.

Absentee ballot requests are now being received from two third-party groups, Voter Participation Center (VPC) and the Center for Voter Information (CVI). So far, there has not been a repeat of the 2020 addressing issues. As of August 23, 2021, 926 applications were received; 801 were for permanent absentee ballot status; 125 were one-time absentee ballot requests, and 187 applications have been rejected for missing information. The missing information is almost exclusively the social security number which is not pre-populated on the application. These voters are being notified and instructed on how to correct the problem. Ms. Hanley reminded the third-party groups supporting this effort that voters must carefully review the application to supply the information that is not pre-populated. Mr. Kiraly asked if any additional applications had been received since August 23. Ms. Jones reported that the number of absentee ballot applications received initiated by third-party groups now stands at 1,342 with 1139 applications for permanent absentee ballot status and 203 requests for one-time absentee ballots.

Staff participated in the Fairfax County Public School’s Civics In-Service workshop by providing a PowerPoint to include voting deadlines, information on the page program, and contact information supporting third party voter registration efforts. Support will be through registration training, materials, and registration forms. This wholesale approach to outreach exponentially increases an organization’s ongoing outreach efforts. After the November 2021 election, more extensive outreach efforts will be contemplated.

On September 17, 2021, the Office expects to mail up to 150,000 absentee ballots. Changes in state law now permit localities to contract with third party vendors to print and mail absentee ballots. After considering three companies, K&H Printing of Everett, Washington was selected. To accommodate the automation of this process and comply with Section 203 language requirements, the number of absentee ballot envelopes were reduced and reformatted. Instructions will be included with the new absentee ballot mailout. Concerns were voiced regarding the visibility of a voter’s signature on the outer envelope as well as whether or not the

postmark might obscure critical information. Mr. Konopasek explained that if voters are not comfortable placing their signature on the redesigned outer envelope, they can place the ballot into another envelope and address it before returning it. The new design should not obscure information and has received written approval from ELECT and the United States Postal Service (USPS). Mr. Hunt asked what steps would be taken if the outer envelope is damaged to the point that required information is not legible or missing. Mr. Konopasek explained that the voter would be contacted and given an opportunity to cure any information that may be missing. Mr. Kiraly asked for a prototype of the absentee ballot return envelope, and Mr. Konopasek agreed to provide it to the local political committees.

Supervisors and assistant supervisors are being recruited to serve in the voter satellite offices. Training begins on September 1. Mr. Hunt asked if party affiliation is considered when placing supervisors and assistant supervisors. Mr. Konopasek responded that party affiliation is not a condition of employment, nor a legal requirement; however, these individuals do provide this information so that party balance can be considered. Mr. Konopasek added that many of the supervisors and assistant supervisors are recruited from the election officer pool where party affiliation is known. Ms. Chaikovsky also commented that every effort is made to achieve partisan balance and currently, parity has been largely achieved across all of the voter satellite offices. Mr. Akey asked if poll watchers are permitted in the voter satellite offices, and Mr. Konopasek answered that the process is transparent; a specified number of poll watchers are allowed to observe.

The newest certified version of software for the PollPads in lieu of laptops and VERIS will be piloted for early voting. The PollPads will sync with every other PollPad in service in the county and not just those at the same location (as is the case in the precincts on Election Day). The sync will occur every minute preventing the possibility of voters voting more than once. This functionality has been thoroughly tested by staff. VERIS will be available on a limited basis as a back-up.

The plan for the Gerry Hyland Government Center has changed, eliminating the innovative voting in a large tent. Due to legal questions on the definition of a public “building”, voting will now occur on the second floor of the Center. Expanded curbside voting will be available at this location. The voter satellite offices approved at the July 22, 2021, Board meeting are definitive and posted on the Office website.

The resource allocation for the November 2021 election will be presented at the next Board meeting.

For the first time, ballots will be printed by precinct in anticipation of the impending requirement by ELECT that absentee ballot results from the Central Absentee Precinct (CAP) be reported by precinct. VERIS is not designed to report precinct level CAP results, but this information will be available on the Office website. Continuing the pilot from the June Primary, the results from the electronic media from the DS200s will be uploaded on election night. If successful, this November will be the last time the election teams will “call in” the results.

Mr. Konopasek followed up on a question raised at the last Board meeting regarding how many ballots an individual is allowed to cast in a drop-off box. In an email dated September

30, 2020, ELECT answered the following questions based on the law passed by the General Assembly providing for drop-off boxes.

- Can a voter drop off someone else's absentee ballot? **YES**
- How many ballots can one person return? **CODE DOES NOT ADDRESS THIS - NO LIMIT IMPOSED**
- Can a voter drop off 1 ballot for a family member who is not able to drop off their own ballot (e.g. sick and stuck at home)? **YES**
- Can a voter drop off 5 ballots for family members who are visible (e.g. in the car outside)? **YES**
- Can a voter drop off 5 ballots for family members who are not visible (e.g. at home)? **YES**
- Can a voter drop off 20 ballots for friends or others who are not visible? **YES**

As a result of this guidance, election officers were instructed not to question individuals dropping of multiple ballots. Mr. Hunt commented that these instructions were authorized under an existing state of emergency. Although drop-off boxes are now permanent, a state of emergency no longer exists. Mr. Hunt asserted that the guidance on casting an absentee ballot should reflect current statute. Ms. Lawton pointed out that Va. Code §24.2-707 describes "the voter" returning an absentee ballot to the office of the General Registrar, but does not specify "the voter" when depositing the ballot to a drop-off box, and in Va. Code §24.2-707.1, it does not specify "the voter" when setting forth the standards for returning absentee ballots to drop-off boxes. Ms. Hanley suggested further guidance be solicited from ELECT. Mr. Udeshi added that earlier today ELECT reaffirmed that the guidance regarding the return of absentee ballots to a drop-off box has not changed. Follow-up on this issue will continue.

Mr. Konopasek reviewed ELECT's security standards for video surveillance for the permanent drop-off box at the Fairfax County Government Center. He stated that "the surveillance must be retained for 30 days following the deadline to certify the election, or until the conclusion of any election contest, whichever is later; except where there is a potential violation of law where the surveillance could be used as evidence, then it must be retained through the statute of limitations or conclusion of judicial proceedings, whichever is later" (Revised Official ELECT Guidance, Security Standards for Drop-off Locations, September 25, 2020, attached and made a part of this record). The request submitted to Facilities Management Department (FMD) to live stream or view the video footage of the drop-off box will not be permitted because it violates the County's security policy. Although the video is not continually monitored, if probable cause is shown that a violation allegedly occurred, the footage can be accessed. To ensure that the County's policy complies with ELECT's security requirements, Mr. Konopasek will follow-up with FMD to ascertain how long video surveillance is retained. The suggestion that the public be permitted to set up a camera to monitor the drop-off box was not encouraged nor endorsed by the Electoral Board or the General Registrar.

There were no Electoral Board reports.

Under New Business, Ms. Hanley moved that the Electoral Board authorize forty-three (43) additional assistant registrar designated positions for the period September 15, 2021, through October 31, 2021. These positions will provide supervision at the fifteen (15) voter

satellite offices and the extension of the Office of Elections at the Government Center. Mr. Hunt asked how staff arrived at the number forty-three. Ms. Chaikovsky explained that this number will cover the supervisor and assistant supervisor requirements plus provide back-up for the additional days of early voting. The motion passed by a vote of 3-0.

Ms. Hanley stated that the current policy of the Electoral Board permits remote participation by an Electoral Board member. Because the law has expanded opportunities for members to participate remotely, Ms. Hanley moved approval of the updated policy entitled Policy of Electoral Board to Permit Participation in Board Meetings by a Member from a Remote Location (attached and made a part of this record). The motion passed by a vote of 3-0.

Under Public Comments, additional concerns and discussion occurred regarding video surveillance of the drop-off box at the Government Center, the number of ballots a single voter should be allowed to cast in the drop-off boxes, the partisan balance of supervisors, assistant supervisors, and staff for the voter satellite offices, as well as the CAP, chain of custody of the returned absentee ballots, and the redesigned absentee ballot envelope.

Ms. Sachse questioned Mr. Konopasek as to what resources he employs to prevent the disenfranchisement of valid voters by non-citizens on the voter rolls. Mr. Konopasek explained that there exists no legal mechanism to “check” the veracity of the information provided on the voter registration application. No photo identification is required to register to vote; however, willfully supplying false information on the application constitutes election fraud and can be punished as a Class 5 felony. If an individual attests that they are a non-citizen, or does not provide an answer regarding citizenship, they are issued a denial letter that includes an additional registration application. This form must be returned for the individual to successfully register to vote.

Ms. Yohai asked if early voting would be held on October 11, 2021 (Columbus Day). Mr. Konopasek responded that early voting would be held on October 11, 2021, as this is not a county holiday. Ms. Yohai also asked the Board to consider changing the caption to "Early Voting" and use a "walking envelope" icon to convey both absentee voting by mail and in-person early voting.

Ms. Thoensen asked if there would be a method employed on the absentee ballot envelope to assist voters with visual impairments. Mr. Konopasek answered that the returned absentee ballot will be accepted as long as the voter signs anywhere on the envelope.

Mr. Hunt moved that the Board enter into a Closed Session for the purpose of discussing specific personnel matters, as permitted by Va. Code § 2.2-3711(A)(1). Without objection, and by a vote of 3-0, the Board entered into Closed Session at 7:16 p.m.

At 6:35 p.m. the Board concluded the Closed Session. Chairman Hunt 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 identified in the motion for the closed meeting, by which the closed meeting was convened, was heard, discussed or considered in the closed meeting of the Electoral Board. That roll call vote shall be recorded and included in the minutes of the Electoral Board.”

Secretary Hanley then called the roll for the vote on the above statement:

Voting Yes:	Chairman Hunt
	Vice Chairman Lawton
	Secretary Hanley

There being no further business, Ms. Lawton moved to adjourn. The motion carried, and without objection, the meeting was adjourned at 8:08 p.m.

Attachments

Stephen M. Hunt, Chairman

Bettina M. Lawton, Vice Chairman

Katherine K. Hanley, Secretary