

MINUTES  
Fairfax County Electoral Board  
November 3, 2021

The Fairfax County Electoral Board (Board) met on Wednesday, November 3, 2021, in Conference Rooms 2/3 at the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax to receive the election materials necessary to canvass the returns and ascertain the results of the General and Special Elections held on November 2, 2021. Chairman Stephen M. Hunt, Vice Chairman Bettina M. Lawton, Secretary Katherine K. Hanley, Election Manager Eric Spicer, and Clerk to the Board Beth Dixon Methfessel were present. In addition, rovers and Office of Elections (Office) staff were present to conduct the Canvass.

Mr. Hunt called the Canvass to order at 9:12 a.m., introduced the Board, and welcomed the Canvass workers, authorized party representatives, and observers. He thanked everyone for their continued service after a long election yesterday.

Mr. Spicer explained that the Canvass will be divided into two phases. In the first phase, the teams will complete the first 5 steps of the results worksheet, comparing the statement of results (SORs) to the ERM (Election Results Management-ElectionWare) reports for all precincts. After the completion of this round, the administrative review phase will begin to check for missing signatures, documents, etc. This change will allow the official results to be ascertained more quickly. All corrections to the SORs should be made in red and initialed by the Canvass team and brought to the immediate attention of the Board. Any issues or problems regarding the Canvass should also be brought to the Board. The Chief's Notes will be set aside for Board review. Due to social distancing protocol requiring a tight configuration of only eight canvass teams, Mr. Hunt asked that conversation inside the canvass room be kept to a minimum so the teams could hear each another.

The first phase of the Canvass was completed at approximately 12:00 p.m. The Canvass teams recessed for lunch at 12:00 p.m. The doors were secured, and at 1:00 p.m. the conference rooms were re-opened, and the second phase of the Canvass began.

At 12:00 p.m. in Conference Room 232, the Electoral Board convened the provisional part of the canvass as required by Va. Code § 24.2-653 to allow voters casting provisional ballots in the November 2, 2021, General and Special Elections, to present any information that might prove they are qualified, registered voters in the precinct where they cast their provisional ballot.

Mr. Hunt moved that the Board enter into a Closed Session for the purpose of considering whether each person who submitted a provisional vote at the election was qualified to do so. Other than appropriate staff and legal counsel of the Electoral Board, attendance at this meeting shall be permitted for the persons whose provisional votes are being considered with their legal counsel, if present, as well as one authorized representative of each political party or independent candidate, as specified in §24.2-653(B). While the Electoral Board is in Closed Session, Election Manager Eric Spicer will supervise the Canvass. The motion passed by a vote of 3-0, and the Board moved into Closed Session at 12:00 p.m.

**Five** voters presented information regarding their provisional ballots. The authorized representative for the Fairfax County Republican Committee (FCRC) was Christine Brim; there was no authorized representative for the Fairfax County Democratic Committee (FCDC).

At 4:15 p.m. the Board concluded the Closed Session. Mr. Hunt moved that the Fairfax County Electoral Board certify that in the Closed Session just concluded, the only matters discussed were the qualifications of provisional voters, as permitted by Virginia Code § 24.2-653, and as identified in the motion to close the meeting pursuant to the Virginia Freedom of Information Act. The motion passed by a vote of 3-0. Mr. Hunt recessed the provisional ballot meeting subject to the call of the chair.

Thursday, November 4, 2021  
Reconvened Canvass and Provisional Ballot Meeting

At approximately 9:00 a.m., the Canvass reconvened in Conference Rooms 2/3.

At 1:50 p.m. the Canvass concluded for all 247 precincts. Staff reported that there will be **2636** provisional ballots to adjudicate. The provisional voter log was completed at 9:08 a.m. and distributed to the political party committees.

At 2:00 p.m. the Canvass recessed. The Canvass will reconvene at 9:00 a.m. on Saturday, November 6, 2021.

A Logic and Accuracy testing of the ExpressVote voting system was conducted at 3:30 p.m. with representatives of both political party committees in attendance. No anomalies were found.

Saturday, November 6, 2021  
Reconvened Canvass and Provisional Ballot Meeting

At approximately 9:00 a.m., the Electoral Board reconvened the Canvass in Conference Rooms 9/10 as required by Va. Code § 24.2-653 to allow voters casting provisional ballots in the November 2, 2021, General and Special Elections to present any information that might prove they are qualified, registered voters in the precinct where they cast their provisional ballot. The authorized representative for the Fairfax County Republican Committee (FCRC) was Christine Brim; there was no authorized representative for the Fairfax County Democratic Committee (FCDC). No provisional voters appeared in person.

The timeline for the remainder of the Canvass was discussed. Hand-counts for military and overseas emailed ballots as well as any absentee ballot that may have been damaged or was otherwise unable to be scanned will begin at 9:00 a.m. and continue throughout the day. Provisional ballot research will continue throughout the day, and adjudication was set for 10:00 a.m. on Sunday, November 7, 2021. The canvass of the CAP

will begin on Sunday, November 7, 2021, at the conclusion of the Closed Session for provisional ballot adjudication.

At 11:30 a.m. Mr. Hunt recessed the provisional ballot meeting subject to the call of the chair.

Sunday, November 7, 2021  
Reconvened Canvass and Provisional Ballot Meeting

At approximately 10:25 a.m., the Electoral Board and reconvened the Canvass in Conference Rooms 9/10.

Mr. Hunt moved that the Board enter into a Closed Session for the purpose of considering whether each person who submitted a provisional vote at the election was qualified to do so. Other than appropriate staff and legal counsel of the Electoral Board, attendance at this meeting shall be permitted for the persons whose provisional votes are being considered with their legal counsel, if present, as well as one authorized representative of each political party or independent candidate, as specified in §24.2-653(B). The motion passed by a vote of 3-0, and the Board moved into Closed Session at 10:26 p.m. The authorized representative for the FCRC was Christine Brim; there was no authorized representative for the FCDC.

At 10:52 a.m. the Board concluded the Closed Session. Mr. Hunt moved that the Fairfax County Electoral Board certify that in the Closed Session just concluded, the only matters discussed were the qualifications of provisional voters, as permitted by Virginia Code § 24.2-653, and as identified in the motion to close the meeting pursuant to the Virginia Freedom of Information Act. The motion passed by a vote of 3-0.

Mr. Konopasek reported that the meticulous and thorough research on 7000 provisional ballots required 550 person hours to complete. Pat Ferguson, Lisa Hogle, and Gissell Fernandez were recognized for their incredible efforts supervising this process to ensure the highest level of election integrity and adherence to state law. Mr. Konopasek also recognized seasonal staff for their invaluable contribution to this process over the last four days. Ms. Hanley thanked Cheryl Jones, Sean Stewart, and Jerald Taylor and the rest of the absentee ballot team that achieved a 55% cure rate for absentee ballots that required curing.

Mr. Hunt moved that **1693** out of the 2635 Provisional Ballots entered as qualified on the Master Provisional Ballot Log be **accepted and counted** for the reasons determined by a majority vote of the Electoral Board. The Provisional Ballot Log shall be retained and incorporated into the Minutes of the Canvass for the November 2, 2021, General and Special Elections. The motion passed by a vote of 3-0.

Mr. Hunt moved that **942** out of the 2635 Provisional Ballots entered as disqualified on the Master Provisional Ballot Log be **rejected** for the reasons determined by a majority vote of the Electoral Board. The Provisional Ballot Log shall be retained and incorporated into the Minutes of the Canvass for the November 2, 2021, General and Special Elections. The motion passed by a vote of 3-0.

The qualified ballots were taken to Conference Room 315 for extraction and scanning on the high-speed DS850. Once completed, the results were uploaded into ERM, and a report was generated for the statement of results.

Mr. Konopasek explained to the Board that the replication of hand-counted absentee ballots using the ExpressVote machine was completed. A second audit comparing the original ballot to the duplicate ballots was also performed. The political parties were present to observe this process. Nevertheless, the County Attorney's Office advised that this method of obtaining results for ballots requiring hand-counting is not authorized by Virginia Code. Repeating the hand-count using the traditional method was recommended and performed on Saturday, November 6, 2021. Mr. Konopasek provided a side-by-side comparison (attached and made a part of this record) of the results of both methods and asked the Board to choose what method should be used to report the results of these ballots. Mr. Konopasek added that although the Department of Elections (ELECT) did not follow through, it planned to issue guidelines for ballot duplication based on the process proposed by Fairfax County. Mr. Hunt asked Ms. Jones how many people comprised each team reviewing the hand-count. Ms. Jones responded that each team utilized three people; a person who read the results from the ballot, a person who recorded the results, and a person who verified the accuracy of what was read and tallied. Using the specific stipulation in Virginia Code, the hand-counts are tallied by contest. After discussion, Ms. Lawton moved that upon review of Virginia Code, and considering the advice of the County Attorney's Office, current statute does not support the transcription of ballots requiring hand-counting, therefore, the traditional hand-count method will be used to report the results. Prior to the next election, however, guidelines for using the superior method of transcription must be clarified. The motion passed by a vote of 3-0.

Ms. Hanley remarked that due to the volume and complexity of changes in Virginia Code, a list of Code sections that need reviewing and updating should be requested. Additionally, the issuance of clear guidelines must follow this formal review. Mr. Konopasek commented that a review of Virginia Code will be performed over the next two months to compare the current Canvass process for precincts, provisionals, and early voting with the specific requirements found in Virginia Code.

Mr. Spicer reported that there were no changes from the ERM precinct results with the results worksheets used at the Canvass. Mr. Hunt asked if the machine tapes were compared to the ERM precinct results reports. Mr. Konopasek responded that the tapes were used only if there was a discrepancy. Two ERM precinct results reports did not match the tapes or election results worksheet due to an unsuccessful upload of the media. The memory sticks were retrieved and re-uploaded. This corrected the discrepancy to achieve 100% correlation.

The Canvass of the Central Absentee Precinct concluded at 6:14 p.m.

The Board qualified a total of **1693** provisional ballots distributed as follows for the three congressional districts (CD); 879 in the 11<sup>th</sup> CD; 271 in the 10<sup>th</sup> CD; and 543 in the 8<sup>th</sup> CD. One less qualified ballot was scanned because one ballot envelope was empty.

The Board completed the Statement of Results for the qualified provisional voters in the 8<sup>th</sup>, 10<sup>th</sup>, and 11<sup>th</sup> CDs for the November 2, 2021, General and Special Elections.

The Board then certified the election results for the November 2, 2021, General and Special Elections, and signed the abstracts. The abstracts will be sent to the Department of Elections for review on Tuesday, November 9, 2021.

Ms. Lawton moved that there being no further business, the Board conclude the November 2, 2021, General and Special Elections. By a vote of 3-0, and without objection, the Board adjourned at 6:19 p.m.

Attachments

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Stephen M. Hunt, Chairman

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Bettina M. Lawton, Vice Chairman

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Katherine K. Hanley, Secretary

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